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*St. Cloud Minn. -- Charter*  
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# HOME RULE CHARTER

OF THE

CITY OF ST. CLOUD

MINNESOTA

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ADOPTED NOVEMBER 28TH

A. D., 1911

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OFFICIAL PUBLICATION

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BY ORDER OF THE  
COMMISSION OF THE CITY OF ST. CLOUD





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# CHARTER OF THE CITY OF ST. CLOUD

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## CHAPTER I.

### CITY AND WARD BOUNDARIES.

#### INCORPORATION AND POWERS.

Section 1. All that district of country hereinafter described, shall be a city by the name of St. Cloud, and all the people now inhabiting and those who shall hereafter inhabit the said district, shall be a municipal corporation, by the name of the "City of St. Cloud," and by that name may sue and be sued, plead and be impleaded, in any court; make and use a seal and alter it at pleasure; and take, hold and purchase, lease and convey all such real, personal and mixed estate as the purposes of the corporation may require, or the transaction or exigencies of its business may render convenient, within or without the limits of such district; shall be capable of contracting and being contracted with; and shall have all the powers possessed by municipal corporations at common law, and in addition thereto shall possess all powers hereinafter granted; and all the authorities thereof shall have perpetual succession.

#### BOUNDARIES.

Sec. 2. The district of country constituting the City of St. Cloud shall be the following described lands situate in township one hundred and twenty-four (124) north, of range twenty-eight (28) west, in the county of Stearns and state of Minnesota, to-wit: All of section (2), the southwest quarter, and the east half of section three (3), all of sections ten (10), eleven (11), twelve (12), thirteen (13) and fourteen (14), the north half of the southwest quarter, and the north half of the southeast quarter, and the southeast quarter of the southeast quarter, and the north half of section fifteen (15), the northeast quarter of the northeast quarter of section twenty-two (22), the north half of section twenty-three (23), and lots one (1) and two (2) of section twenty-four (24). And also the following described lands situate in the county of Benton and state of Minnesota, to-wit: The south half of the southwest quarter of section twenty-five (25); all that part of the southeast quarter of the south-

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east quarter of section twenty-six (26) not included in the platted portion of Sweet's addition to Sauk Rapids, and sections thirty-five (35) and thirty-six (36), all in township thirty-six (36) north, of range thirty-one (31) west. And also the following described lands situate in the county of Sherburne and state of Minnesota, to-wit: Section one (1) and lot one (1) of section twelve (12) in township thirty-five (35) north, of range thirty-one (31) west, and the south half of section six (6); and the northeast quarter of section seven (7) in township thirty-five (35) north, of range thirty (30) west, excepting therefrom, however, the following described tracts which have heretofore been removed from the City of St. Cloud under and by virtue of the provisions of Chapter 221 G. L. 1907, to-wit:

The north half of the southwest quarter ( $N\frac{1}{2}$   $SW\frac{1}{4}$ ) and the northwest quarter of the southeast quarter ( $NW\frac{1}{4}$   $SE\frac{1}{4}$ ), section three (3); also the southwest quarter of the northwest quarter ( $SW\frac{1}{4}$   $NW\frac{1}{4}$ ); the south quarter of the northwest quarter of the northwest quarter ( $S\frac{1}{4}$   $NW\frac{1}{4}$   $NW\frac{1}{4}$ ); the east half of the northwest quarter ( $E\frac{1}{2}$   $NW\frac{1}{4}$ ); the west half of the northeast quarter ( $W\frac{1}{2}$   $NE\frac{1}{4}$ ) and all the east half of the northeast quarter ( $E\frac{1}{2}$   $NE\frac{1}{4}$ ) west of the St. Cloud-Clearwater Road, section twenty-three (23); also all of lot one (1) west of the Great Northern Railway Track and Right-of-Way, and all of lot two (2), excepting the Great Northern Railway Right-of-Way, all in section twenty-four (24), all in Township one hundred twenty-four (124), Range twenty-eight (28), Stearns County, Minnesota.

Also all that part of the north half of the southeast quarter ( $N\frac{1}{2}$   $SE\frac{1}{4}$ ) of section six (6), Township thirty-five (35), Range thirty (30), Sherburne County, Minnesota, lying easterly of the Right-of-Way of the St. Paul, Minneapolis and Manitoba Railway Company and the Northern Pacific Railway Company.

#### WARDS IN STEARNS COUNTY.

Section 3. That portion of the city of St. Cloud situate in the county of Stearns shall be divided into four wards to be called the First (1st), Second (2nd), Third (3rd) and Fourth (4th) wards, limited and bounded as follows, viz: All that part of said territory within the boundaries and limits of said city as now established or as they may hereafter be extended lying south of the following line, viz: Commencing at the intersection of the center line of Fourth street south, (formerly Wilson street) with the Mississippi river, and running thence west until the center line of said street extended intersects the center line of the so-called Lake Boulevard as the same is shown on the plat thereof on file in the office of the City Clerk; thence southerly on the center line of said boulevard to the intersection of the same with the center line of Tenth avenue; thence south on the center line of said Tenth avenue until the same intersects the south line of the northeast quarter of said section fourteen (14); thence west on said south line to the center of said section fourteen (14); thence south on the line between the southeast quarter and the southwest quarter of said section until the same intersects the south line of the north half of the southeast quarter of said section; thence west on said line extended

to the westerly limits of said city, shall constitute and be the First Ward.

All that part of said territory within the boundaries and limits of said city, as now established or as they may be hereafter extended, lying north of the said north boundary line of the First Ward and south of the following line, viz: Commencing at the intersection of the center line of First Street south (formerly Lake street), with the Mississippi river and running thence westerly along the center line of said street until the same intersects the south line of the north half of the northwest quarter of section fourteen (14) aforesaid, and thence west on said south line, and said south line extended to the westerly limits of said city, shall constitute and be the Second Ward.

All that part of said territory within the boundaries and limits of said city as now established or as they may be hereafter extended lying north of the said north boundary line of the Second Ward, and south of the following line, viz: Commencing at the intersection of the center line of Second street north with the Mississippi river, and running thence west on said center line until the same intersects the center line of Fifteenth (15th) avenue; thence northerly along the center line of said Fifteenth avenue until the same intersects the center line of Third street north; thence westerly along the center line of said Third street north until the same intersects the north line of section fourteen (14) aforesaid; thence west along said north line of section fourteen (14) and said line extended along the center line of Fourth street north to the westerly limits of the city, shall constitute and be the Third Ward.

All the remainder of said city situate in said Stearns county shall constitute and be the Fourth Ward.

#### WARDS IN BENTON AND SHERBURNE COUNTIES.

Section 4. All the territory of said city as now established or as it may hereafter be extended, situate in the County of Benton and lying north of the center line of the main track of the St. Cloud and Hinckley Railway, shall constitute and be one ward of said city, and shall be called the Fifth Ward.

All the remainder of said territory situate in said county of Benton shall constitute and be one ward of said city, and shall be called the Sixth Ward.

All the territory of said city as now established or as it may be hereafter extended, situate in the county of Sherburne, shall constitute and be one ward of said city and shall be called the Seventh Ward.

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## CHAPTER II.

### OFFICERS AND ELECTIONS.

#### OFFICERS, QUALIFICATION, AND HOW ELECTED OR APPOINTED.

Section 5. The officers of said city shall be those mentioned in this charter, and such additional officers as may be appointed from time to time by the Commission.

The elective officers of the city shall be a mayor, two commissioners, five councilmen and three justices of the peace for the city who shall be styled "City Justices," all of which officers shall be nominated and elected at large. All of said officers shall be residents and qualified voters of the city. All other officers of the city shall be appointed by the Commission unless otherwise provided.

#### TERMS OF OFFICE.

Section 6. The term of all elective officers shall be four years. The term of office of every officer elected or appointed under this charter shall commence on the fourth Monday in April of the year for which he shall be elected or appointed, and shall continue until a successor is elected or appointed, and shall have qualified, unless otherwise provided. All persons now holding office under the charter of said city shall continue in office until the expiration of their respective terms or until their successors have been chosen and shall have qualified.

#### ELECTIONS AND LAWS GOVERNING THE SAME.

Section 7. Elections for the elective officers provided for by this charter shall be held every four years on the first and third Mondays in April as hereinafter provided. The provisions of the general laws of this state governing elections shall apply to all elections held under this charter, except as otherwise provided herein. All special provisions governing elections contained in this Charter shall also apply to all elections within the city, but the returns for all city elections shall be made to the City Clerk, and for all state and county elections to the proper County Auditors. The Judges of Election shall not be required to meet for the registration of voters at any other time than the Friday immediately preceding any general election; and unless ordered so to do by the Commission, they shall receive pay for no more than one day each for services in the registration of voters.

#### ELECTION PRECINCTS AND VOTING PLACES.

Section 8. The Commission may divide any ward of said city into as many election precincts as they may deem proper and necessary. Each ward shall constitute an election precinct until so divided; and the boundaries of no precinct shall be changed within twenty days of any election. The Commission shall designate the place of holding election in each election precinct at least twenty days prior to such election, and the place so designated shall remain the place of holding election until a new designation is made.

#### QUALIFICATIONS OF VOTERS.

Section 9. All persons entitled to vote for state and county officers, and who shall have resided for ninety days in the city and for ten days next preceding the election in the precinct where they offer their votes shall be entitled to vote for any officer elected under this Charter, and to hold any office created therein except as herein otherwise provided.

#### JUDGES OF ELECTION.

Section 10. At least twenty days before any election the Commission shall appoint Judges of Election for each election precinct.



No person shall serve as Judge of Election who is a candidate at such election.

#### RETURNS OF CITY ELECTION, NOTICE OF OFFICERS ELECTED.

Section 11. When a city election shall be closed, and the number of votes for each person voted for shall have been counted and ascertained the Judges of Election shall make returns thereof, stating therein the number of votes cast for each person for each and every office, and shall deliver such returns or cause the same to be delivered to the City Clerk within one day after such election. The Commission shall meet and canvass such returns and declare the result as it appears therefrom, within four days after election; and the City Clerk shall forthwith give notice to the officers elected of their respective elections by serving the same on such officers personally or by depositing the same properly addressed in the post-office at St. Cloud.

#### VACANCIES IN OFFICE AND HOW FILLED.

Section 12. Whenever a vacancy shall occur in any office herein provided for, or whenever there shall be a failure by the people to elect any such officers on the day designated, the Commission shall have power and it shall be their duty to declare the office vacant by resolution entered in their minutes, and to fill such vacancy by appointment. The person so appointed to fill a vacancy in an elective office shall hold his office and discharge the duties thereof only until the next general municipal election.

#### SPECIAL ELECTIONS.

Section 13. It shall not be necessary to make new precincts, to appoint Judges, or to make new registers of voters for special elections, but the Judges of Election of the last general election in any precinct shall continue to be Judges of Election for such special election; and vacancies of Judges may be filled the same as in case of general elections; and such Judges shall have the right to take from the City Clerk and use at such special election the registers used at the last general election.

#### WHEN AN OFFICE SHALL BE DEEMED VACANT, RESIGNATIONS.

Section 14. Any officer removing from the city or any officer who shall refuse or neglect for ten days after notice of his election or appointment to enter upon the discharge of the duties of his office, shall be deemed to have vacated his office.

#### HOW OFFICERS SHALL QUALIFY.

Section 15. Every person elected or appointed to any office under this Charter, shall, before he enters upon the duties of his office, take and subscribe an oath of office and file the same with the City Clerk. Such officers as the Commission shall require, shall severally, before they enter upon the duties of their respective offices, execute to the City of St. Cloud bonds in such amount and in such conditions as the Commission may prescribe; and in the absence of special provisions such officers shall give bond in the amounts and upon the conditions of the bonds of their predecessors in office. The Commission may from time to time require new bonds

and remove from office any officer refusing or neglecting to give the same. The bonds of all the city officers shall be such as shall be approved by the Commission.

MODE OF NOMINATION AND ELECTION.

Section 16. The mode of nomination and election of all elective officers of the city to be voted for at any municipal election shall be as follows and not otherwise.

CONDITION OF CANDIDACY.

Section 17. The name of a candidate shall be printed upon the ballot when a petition of nomination shall have been filed in his behalf in the manner and form and under the conditions hereinafter set forth.

FORM OF NOMINATION PETITION.

Section 18. The petition of nomination shall be signed by not less than twenty-five qualified electors. Each petition shall be verified by one or more persons as to qualifications and residence, with street number of each of the persons so signing the said petition, and the said petition shall be substantially in the following form.

“PETITION OF NOMINATION.

The undersigned, duly qualified electors of the City of St. Cloud, and residing at the places set opposite our respective names hereto do hereby request that the name of (name of candidate) be placed on the ballot as a candidate for nomination for (name of office) for the full term (or for the unexpired term) to be voted for at the municipal election to be held in the City of St. Cloud on the..... day of April, 19..... We further state that we know him to be qualified elector of said city and a man of good moral character and qualified in our judgment for the duties of such office.”

.....  
Names of Qualified Electors : Number : Street  
.....

DATE OF PRESENTING PETITION.

Section 19. A petition of nomination signed by not less than twenty-five qualified electors, for any one candidate, may be presented to the City Clerk not earlier than forty-five days nor later than thirty days before the election. The City Clerk shall endorse thereon the date upon which the petition was presented to him. No filing fee shall be required of any candidates for any elective office provided for in this charter.

WITHDRAWAL OF SIGNATURE.

Section 20. Any signer to a petition of nomination may withdraw his name from the same by filing with the City Clerk a verified revocation of his signature before the filing of the petition by the City Clerk and not otherwise. He shall then be at liberty to sign a petition for another candidate for the same office.

WITHDRAWAL OF CANDIDATE.

Section 21. Any person whose name has been presented under this section as a candidate may, not later than twenty-five days



before the day of election, cause his name to be withdrawn from nomination by filing with the City Clerk a request therefor in writing, and no name so withdrawn shall be printed upon the ballot. If upon such withdrawal the number of candidates remaining does not equal the number to be elected, then other nominations may be made by filing petitions therefor not later than twenty days prior to such election.

#### FILING PETITIONS OF NOMINATION.

Section 22. If the petition of nomination be found sufficiently signed as hereinbefore provided, the City Clerk shall file the same twenty-five days before the date of the election. When a petition of nomination shall have been filed by the Clerk it shall not be withdrawn nor added to and no signature shall be revoked thereafter.

#### PUBLICATION OF NAMES OF CANDIDATES. BALLOTS FOR PRIMARY.

Section 23. Immediately upon the expiration of the time for filing the petitions for candidates the City Clerk shall cause to be published for three successive days in two daily newspapers published in the city in proper form the names of the persons with the offices for which they are respectively candidates, as they are to appear upon the primary ballot, and shall thereupon cause the primary ballot to be printed, authenticated with the fac-simile of his signature.

#### NAMES ON PRIMARY BALLOT. FORM OF BALLOT.

Section. 24. Upon said primary ballot the names of the candidates for Mayor, arranged alphabetically shall be placed at the head, with a square at the right of each name, and at the right of the square the words, "Vote for one." Following these names and arranged likewise there shall be placed the names of the candidates for Commissioners with a square at the right of each name, and likewise at the right of the square the words, "Vote for two." Following the names of candidates for Commissioners and likewise arranged there shall be placed the names of the candidates for Councilmen, with a square at the right of each name, and at the right of the square the words, "Vote for five." Following the names of candidates for Councilmen and likewise arranged there shall be placed the names of the candidates for City Justices, with a square at the right of each name, and at the right of the square the words, "Vote for three." The ballot shall in all respects conform to the requirements of the state law, except as otherwise required by this charter.

#### REQUIREMENTS OF BALLOT.

Section 25. There shall be no party designation or mark whatever on the ballot, and nothing on the ballot shall be indicative of the source of the candidacy or of the support of any candidate.

#### EVERY NOMINEE TO BE ON BALLOT.

Section 26. The name of no candidate who has been duly and regularly nominated and who has not withdrawn his name as herein provided, shall be omitted from the ballot.

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**VOTE NECESSARY FOR ELECTION AT FIRST ELECTION.**

Section 27. In case one or more candidates for an office shall receive a majority of all votes for that office, then and in that case such candidates receiving the highest number of votes shall be declared elected, it being the intent of this paragraph to make possible the election of one or all elective officers at said first election.

**SECOND ELECTION.**

Section 28. If at any election held as above provided there be any office to which no candidate was elected, then as to such office the said first election shall be considered to have been a primary election for the nomination of candidates, and a second election shall be held to fill said office.

If there be no election of mayor, the two candidates for mayor who received the highest number of votes at said primary election shall be the nominees for the office of mayor and shall be the only candidates for mayor at such second election.

If there be no election of commissioners the four candidates for commissioner receiving the highest number of votes at said primary election, shall be the nominees for the office of commissioner and shall be the only candidates for commissioners at such second election.

If one commissioner be elected at such first election then the two candidates for commissioner who received the next highest number of votes at said primary election shall be the nominees for the office of commissioner and shall be the only candidates for commissioner at such second election.

If there be no election of councilmen the ten candidates for councilmen receiving the highest number of votes at said primary election, or if one councilman be elected then the eight candidates receiving the next highest number of votes; or if two councilmen be elected then the six candidates receiving the next highest number of votes, or if three councilmen be elected then the four candidates receiving the next highest number of votes, or if four councilmen be elected then the two candidates receiving the next highest number of votes, as the case may be, shall be the nominees for the office of councilmen and shall be the only candidates for councilmen at such second election.

If there be no election of City Justices or if only one or two City Justices the six candidates for City Justices receiving the highest number of votes at said primary election, or if one City Justice be elected then the four candidates receiving the next highest number of votes; or if two City Justices be elected then the two candidates receiving the next highest number of votes, as the case may be, shall be the nominees for the office of City Justice and shall be the only candidates for City Justice at such second election.

Provided, that if there be any person, who, under the provisions of this subdivision, would have been entitled to become a candidate for any office except for the fact that some other candidate received an equal number of votes therefor, then all such persons receiving such equal number of votes shall likewise become candidates for

such office. The candidates who shall receive the highest number of votes for the respective offices at such second election shall be declared elected.

#### **RULES COVERING SECOND ELECTION.**

Section 29. All the provisions and conditions above set forth as to the conduct of an election, so far as they may be applicable, shall govern the second election.

#### **INFORMALITIES IN ELECTION.**

Section 30. No informalities in conducting a municipal election shall vitiate the same, if it has been conducted fairly and in substantial conformity to the requirements of this charter.

#### **PUBLISH ELECTION EXPENSES.**

Section 31. Every elective officer shall within ten days after qualifying, file with the City Clerk and publish at least once in a daily newspaper of general circulation his sworn statement of all his election and campaign expenses and by whom such funds were contributed. Any violation of any of the provisions of this section shall be a misdemeanor.

#### **TRANSFER OF BOOKS AT EXPIRATION OF TERM OF OFFICE.**

Section 32. Every elective and appointive officer, shall at the expiration of his term of office, in whatsoever way terminated, turn over to his successor in office, or to some other properly authorized officer, on demand, all the books, papers, files, records, moneys and other property and things whatsoever pertaining to his office or received by reason thereof.

#### **ADMINISTERING OATHS. SUBPOENAS.**

Section 33. Every member of the commission, of the council, and of every board provided for in this charter shall have the power to administer oaths and affirmations, and every member shall have power to issue subpoenas, and to compel by subpoena the production of books, papers and documents, and to take and hear testimony concerning any matter or thing pending before such body. If any person so subpoenaed neglects or refuses to appear, or to produce books, papers or documents required by such subpoena, or shall refuse to testify before such body or to answer any questions which a majority of such body shall decide to be proper or pertinent, he shall be deemed in contempt and such body shall thereupon have power to take such proceedings in the premises as are provided by the general laws of this state. The Chief of Police must, on request of any member of such body, detail a police officer or officers to serve such subpoenas.

#### **FIRST ELECTIONS UNDER THE CHARTER.**

Section 34. The first election after this charter goes into effect shall be held pursuant to the provisions hereof on the first Monday in April, A. D. 1912; at which time the only officers to be elected or nominated shall be those named in this charter. The second election provided for herein shall be held pursuant to the provisions hereof on the third Monday in April, A. D. 1912. Said elections shall in all things be conducted in accordance with the provisions of this char-

ter and all officers of the city under the former charter who have any duties to perform in connection with elections are hereby directed to perform such duties strictly in accordance with the provisions hereof and not otherwise.

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### CHAPTER III.

## THE MAYOR.

### CHIEF EXECUTIVE.

Section 35. The Mayor shall be the chief magistrate and executive officer of the city. He shall see that the laws of the State, the provisions of this Charter, and the ordinances of the City are observed and enforced. He shall have general oversight of the several departments of the city government, and shall report to the Commission any neglect, dereliction of duty, or waste, on the part of the superintendent of any department, and take active steps to remedy the same. He shall have care that no advantage is taken of the City and that all contracts of the City are faithfully performed by all parties thereto. He shall take care that all other officers of the city perform their respective duties, and to that end may maintain an action of mandamus or other appropriate action against any delinquent officer of the city.

### REPORTS TO COUNCIL.

Section 36. The Mayor annually or oftener if requested by a majority vote of the Council, shall give the Council information relative to the affairs of the city, or any particular thereof, and from time to time shall recommend to its consideration such matters as he may deem expedient for the interest of the city.

### EXAMINATION OF BOOKS, REPORTS, ETC., OF OFFICERS AND EMPLOYES.

Section 37. The Mayor shall employ at the beginning of each fiscal year a certified accountant to be paid by the city, who shall have full power to examine the books, records and reports of all officers and employees who receive or disburse city moneys, and the books records and reports of such other officers and departments as the Mayor may direct. Said accountant may require any officer or employee of the city to be sworn and explain under oath all matters relative to such books, records and reports. All officers and employees of the city shall give to such accountant all required assistance and information, under oath or otherwise, as to all matters relating to such books, records and reports and shall submit to him for examination such books and papers as may be requested. Refusal or failure of any officer or employee of the City to comply with the requirements of this section shall be sufficient ground for his removal from such office or employment.

### SUPERVISION OF PUBLIC UTILITY COMPANIES.

Section 38. The Mayor shall be charged with the general supervision of all public utility companies so far as they are subject to municipal control; he shall keep himself informed as to their com-



pliance in all respects with the law, and shall see that the terms and conditions of all franchises, whether granted by the City or other authority, are faithfully observed. He shall cause to be instituted such actions or proceedings as may be necessary to prosecute public utility companies for violations of law, or to revoke, cancel or annul any franchise granted by the city to any person, company or corporation which has become forfeitable in whole or in part, or which, for any reason, is illegal or void.

#### MAY REQUIRE ACTION BY CITY ATTORNEY.

Section 39. The City Attorney on demand of the Mayor, must institute and prosecute the necessary actions to enforce the provisions of the preceding section.

#### MEMBER OF COMMISSION.

Section 40. The Mayor shall be a member of the Commission, and have a right to vote upon all propositions, matters and questions coming before it.

#### POWERS AND DUTIES PRESCRIBED BY ORDINANCE.

Section 41. The Mayor shall exercise such other powers and perform such other duties as may be prescribed by general law or ordinance.

#### ACTING MAYOR.

Section 42. During the absence of the Mayor from the city or his inability from any reason to perform the duties of his office, the Vice President of the Commission shall be styled and be Acting Mayor. During such absence or inability on the part of both the Mayor and the Vice President of the Commission the remaining member of the Commission shall be styled and be Acting Mayor. Such Acting Mayor shall have all the powers and perform all the duties of the Mayor, and all his acts as such Acting Mayor shall have the same force and validity as if performed by the Mayor. The Vice President of the Commission shall act as Mayor under the name and style of Acting Mayor during a vacancy in the office of Mayor and until such vacancy shall be filled in manner provided in this Charter.

#### MAYOR'S VETO.

Section 43. All ordinances and resolutions passed by the Council shall, before they take effect, be presented to the Mayor, and such as he shall not sign he shall return to the Council with his objection thereto. The same shall be left with the City Clerk to be presented to the Council at their next meeting thereafter. Upon the return of any ordinance or resolution by the Mayor, the vote by which the same was passed shall be deemed to be reconsidered, and the question shall be again put, notwithstanding the objection of the Mayor; and if upon such vote the Council shall pass the same by a vote of four-fifths of all the members of the Council, it shall have the same effect as if approved by the Mayor; and in such case the vote shall be by ayes and nays which shall be entered in the records of the City Clerk. If an ordinance or resolution shall not be returned by

the Mayor within five days, Sunday excepted, after it shall have been presented to him, the same shall have the same effect as if approved by him.

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#### CHAPTER IV.

### THE COMMISSION.

#### THE COMMISSION, HOW COMPOSED, POWERS.

Section 44. The Mayor and two commissioners after election and qualification under the provisions of this Charter, shall constitute the Commission of the City of St. Cloud. The Commission shall be the governing body and exercise all the executive and administrative powers of the municipality, including all powers of taxation and appropriation, and subject to the limitations herein contained shall be vested with full power and authority adequate to the carrying out of all the powers given to the city by this charter and the general laws of the state. The Commission shall be the licensing body of the city and all licenses heretofore considered and granted or refused by the Common Council shall be considered and granted or refused by the commission.

#### PRESIDENT.

Section 45. The Mayor shall be President of the Commission, and, when present, shall preside at all its meetings.

#### VICE PRESIDENT.

Section 46. The Commission shall at its first meeting after election elect, from its body one to be Vice President.

#### MEETINGS OF THE COMMISSION.

Section 47. The Commission shall hold regular meetings at such times and places as they may determine provided, however, that they hold at least one regular meeting each week. The first regular meeting after the election shall be held on the fourth Monday in April of such year. The Mayor or any two commissioners may call a special meeting. At such special meeting no business shall be transacted other than that designated in the call.

#### QUORUM.

Section 48. A majority of the members of the Commission shall constitute a quorum for the transaction of business.

#### RULES ADOPTED.

Section 49. The Commission shall establish rules for its proceedings.

#### COMMISSION MEETINGS PUBLIC.

Section 50. All meetings of the Commission shall be open to the public.

#### MANNER OF VOTING.

Section 51. Upon every vote, unless it is unanimously carried or rejected, the ayes and nays shall be called and recorded and every



motion and resolution shall be reduced to writing and read before the vote is taken thereon.

#### ABSENT MEMBERS.

Section 52. No final action shall be taken in any matter concerning the department of any absent Commissioner unless such business has been made a special order of the day, by action at a previous meeting, or unless such action is taken at a regular meeting of the Commission.

#### FAILURE TO VOTE.

Section 53. Any member of the Commission, who being present when his name is called, fails to vote upon any then pending proposition, unless excused by the Mayor, shall be counted as having voted in the negative.

#### SIGNING JOURNAL.

Section 54. It is hereby made the duty of the mayor to sign the City Clerk's record of the proceedings of each meeting of the Commission when said record has been approved and is presented to the Mayor for his signature.

#### MONTHLY STATEMENTS.

Section 55. The Commission shall each month publish a report of its proceedings, which shall include an itemized statement of all receipts and expenditures of the city during the preceding month.

#### CITY PRISONS AND WORKHOUSES.

Section 56. The Commission shall have the power to establish and maintain the city prisons and workhouses, for the imprisonment, custody and safe-keeping of all prisoners restrained or charged with any offense whatever in any way cognizable before a City Justice; to make all proper rules and regulations for the government and management of such prisons and workhouses; to appoint keepers and officers for same; to prescribe the duties and fix the compensation of the keepers of said prisons and workhouses, and said keepers shall have all authority of a jailer at common law or the laws of the state.

#### COMMISSION TO AUDIT ACCOUNTS OF CITY OFFICERS.

Section 57. The Commission shall examine, audit and adjust the accounts of all other officers, and the accounts of the city, at such times as it may deem proper; and also at the end of each year, and before the term for which the respective officers were elected or appointed, shall have expired; and the Commission shall require any and every officer to give an account of his books and accounts and vouchers, for such examination and settlement. And if any such officer shall refuse to comply with the orders of said Commission in the discharge of his duties in pursuance of this section, and shall neglect or refuse to return his accounts, or present his books or vouchers to said Commission, it shall be the duty of the Commission to declare the office of such person vacant; and the Commission shall order suits and proceedings at law to be commenced and prosecuted against any officer of said city who may be found delinquent or defaulting in his accounts or in his official duties, and shall

make a full record of all settlements and adjustments, and neglect of duty by any officer shall be sufficient cause for his removal from office by the Commission.

#### COMMISSION TO MANAGE CITY PROPERTY AND FINANCES.

Section 58. The Commission shall have the management and control of all finances and all property of the city; and may purchase any property deemed proper and necessary for the interest and convenience of the city and its inhabitants, and may sell any property of the city when deemed for the interest of the city and its inhabitants, provided, however, said Commission shall not sell or lease or otherwise dispose of or in any manner encumber any water works or electric light plant belonging to said city or any part thereof necessary for its proper operation, nor any water power or real estate to which the same may be appurtenant, nor any parks of said city without submitting the question of such sale, lease or encumbrance to the legal voters of said city at some general or special election called for said purpose, and a majority of the voters voting at such election shall vote in favor thereof; nor without giving notice twenty days prior to such election by a notice published in the official paper of said city that such questions will be submitted.

#### POWER TO ACQUIRE PRIVATE PROPERTY.

Section 59. The Commission shall have power to acquire by purchase or condemnation such private property as may be necessary for sites for public buildings for the use of the city and all departments thereof, and for all purposes connected with any department thereof, and for all streets, alleys, driveways, boulevards, public squares and parks in the city; and to ascertain and determine the value of such private property taken for such uses, and the amount of all damages occasioned to any private property by reason of any public works, structures or improvements in the manner hereinafter in this charter provided.

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### CHAPTER V.

## ADMINISTRATIVE DEPARTMENTS, POWERS AND DUTIES.

#### THE THREE MUNICIPAL DEPARTMENTS.

Section 60. The executive and administrative powers, authority and duties of the City, not otherwise provided for, shall be distributed among and assigned to three departments as follows:

1. Department of Public Affairs and Safety.
2. Department of Streets and Public Improvements.
3. Department of Finances and Accounts.

#### COMMISSION TO ASSIGN DUTIES TO THE DEPARTMENTS.

Section 61. The Commission shall determine and assign the duties of the several departments, subject to the provisions of the last preceding and the next following sections; shall prescribe the powers and duties of officers and employees; may assign particular officers

and employees to one or more departments; may require an officer or employee to perform duties in two or more departments and may make such other rules and regulations as may be necessary or proper for the efficient and economical conduct of the business of the city.

#### THE MAYOR AND COMMISSIONERS.

Section 62. The Mayor shall be superintendent of the department of public affairs and safety, and the Commission shall, at the first regular meeting after the election of its members, designate by majority vote one Commissioner to be superintendent of the department of finances and accounts; one to be superintendent of the department of streets and public improvements; but such designation may be changed whenever it appears that the public service would be benefited thereby. Provided, no superintendent of any of the departments of the city shall have any power to contract debt, to bind the city or make any improvement in said city, unless authorized by majority vote of the Commission.

#### THE COMMISSION TO ELECT OFFICERS.

Section 63. The Commission may, at said first meeting or as soon as practicable thereafter, elect by a majority vote, the following officers:

A city clerk, attorney, assessor, engineer, treasurer, physician, chief of police, chief of fire department, fire marshal, library board, and such other officers and assistants as shall be necessary to the proper and efficient conduct of the affairs of the city and shall by resolution prescribe their duties. Any officer or assistant elected or appointed by the Commission may for sufficient cause be removed from office at any time by a vote of a majority of the members of the Commission. The Commission, at any time when in its judgment the interest of the city so demands, may eliminate, consolidate, or place in the charge of one such officer the functions and duties of two or more of such officers.

#### SUBORDINATE OFFICERS AND EMPLOYEES.

Section 64. The Commission shall have power from time to time by resolution, to create and discontinue offices, deputyships, assistantships and employments other than those prescribed in this charter, to provide the modes of filling them and to prescribe the duties pertaining thereto, according to its judgment of the needs of the city; and may by majority vote of all the members remove any such officer or employee, except as otherwise provided herein; and may by resolution prescribe, limit or change the compensation of such officers or employees.

#### COMPENSATION OF OFFICERS AND EMPLOYEES.

Section 65. The mayor and each of the commissioners shall receive an annual salary of fifteen hundred dollars (\$1500), payable in equal monthly installments. The Councilmen shall receive no salary. The compensation of all other city officers and employees shall be by salary to be fixed by the Commission unless otherwise provided by law or this charter. No officer or employee shall be

allowed any fees, perquisites, emoluments, rewards or compensation, aside from the salary or compensation as fixed by the Commission, but all fees received by him in connection with his official duties shall be paid by him into the city treasury.

#### REPORTS OF DEPARTMENTS.

Section 66. Each department shall annually, on such date as may be fixed by the commission, render a full report on all the operations of such department, and the Commission shall provide for the publication of the same.

#### COMMISSIONERS TO HOLD NO OTHER OFFICE.

Section 67. No member of the commission shall hold any other municipal office, the compensation of which is paid out of the municipal moneys; or be elected or appointed to any office created or the compensation of which is increased by the Commission while he was a member thereof and until one year after the expiration of the terms for which he was elected. Provided, however, the mayor or any commissioner may perform the duties of any appointive officer of the city if so directed by resolution of the Commission, but in such case he shall receive no compensation therefor in addition to his regular salary.

#### OFFICER CANNOT CONTRACT WITH CITY.

Section 68. No officer or employee elected or appointed to office under the provisions of this charter shall be interested, directly or indirectly, in any contract or job for work or materials, or the profits thereof, or services to be furnished or performed for the city, unless such officer or employee or the firm or corporation in which such officers or employee is interested, shall be the lowest bidder, or one of the lowest, in which case the Commission may by unanimous vote accept the same, but such contract or bid shall be in writing, and shall state explicitly the relation and interest of such official or employee in such firm or corporation, and shall be published in full in the official proceedings of the Council, and no such officer or employee shall be interested, directly or indirectly, in any contract or job for work or materials, or the profits thereof, or services to be furnished or performed for any person, firm or corporation operating interurban railway, street railway, gas works, water works, electric light or power plant, heating plant, telegraph line, telephone exchange, or other public utility within the territorial limits of the city. No such officer or employee shall accept or receive directly or indirectly from any person, firm or corporation operating within the territorial limits of the city, any interurban railway, street railway, gas works, water works, electric light or power plant, heating plant, telegraph line, telephone exchange, or other business using or operating under a public franchise, any frank, free ticket or free service, or accept or receive, directly or indirectly, from any such person, firm or corporation, any service upon terms more favorable than is granted to the public generally. Any violation of the provisions of this section, shall be a misdemeanor, and every such contract or agreement shall be void.



**POLITICAL-RELIGIOUS TEST.**

Section 69. No appointment or position under the city government shall be made or be withheld by reason of any religious or political opinions or affiliations or political services, and no appointment to or selection for or removal from any office or employment and no transfer, promotion, reduction, reward, or punishment shall be in any manner affected by such opinions, affiliations or services.

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**CHAPTER VI.****THE COUNCIL.****HOW COMPOSED, POWERS.**

Section 70. The five councilmen after election and qualification under the provisions of this charter shall constitute the Council of the City of St. Cloud. The Council shall, subject to the limitations herein contained, have full power and authority to make, enact, ordain, establish, publish, alter, modify, amend and repeal all such ordinances and by-laws for the government and good order of the city; for the suppression of vice and intemperance; for the prevention of crime and for the general welfare of the city and the inhabitants thereof, as they shall deem expedient.

The enacting clause of all ordinances shall be "The Council of the City of St. Cloud do ordain." The Council shall have full power and authority to declare and impose penalties and punishments against any person or persons or corporations or associations who may violate any provision of any ordinance or by-law passed or ordained by them; and all such ordinances and by-laws are hereby declared to have the force of laws; PROVIDED, that they be not repugnant to the laws of the United States or of this state.

**AUTHORITY TO INCUR DEBT.**

Section 71. The Council shall have no authority to levy taxes or appropriate money, but when in the execution of its proper functions it shall order anything done which requires the expenditure of money the city shall be liable therefor, and such liability may be enforced by proper suit.

**MEETINGS OF THE COUNCIL. OFFICERS.**

Section 72. The Council shall hold meetings at such times as they may determine. The first meeting after the annual election shall be on the fourth Monday in April of election year at which time they shall elect a President and Vice President who shall perform the duties usually performed by such officers. The Mayor or any two councilmen may call a special meeting by notice to each of the members to be delivered personally or left at their usual place of abode. All meetings shall be open to the public. A majority shall constitute a quorum.

**LEGISLATIVE POWER OF ELECTORS.**

Section 73. The electors of the city shall have power through the initiative and otherwise as provided in this Charter, to enact legis-

lation, to carry out and enforce any and all of the general powers of the city, and any and all of the specified powers of the Council; and may, in the manner provided herein and subject to the limitations stated, annul ordinances passed by the Council. Any ordinance adopted by the electors in pursuance of the provisions of this Charter shall be paramount while in force to the provisions relating to the same matter contained in any ordinance, resolution or by-law passed by the Council on its own motion and without the approval of the electors.

#### MATTERS REGULATED OR PROHIBITED BY ORDINANCE.

Section 74. The Council shall have full power by ordinance:

##### LICENSES.

1st. To license and regulate the exhibitions of common showmen and shows of all kinds, and the exhibitions of caravans, menageries, circuses, concerts, theatrical performances, and all other devices and performances to witness which a charge is made, and also public halls and other buildings and enclosures used for places of public resort and amusement; also to license and regulate auctions and auctioneers, insurance agencies and offices, hawkers, peddlers, pawnbrokers, dealers in second-hand goods, junk dealers, slaughter houses, butcher shops, butcher stalls, and vendors of butcher's meat, keepers of intelligence or employment offices, as well as all persons doing the business of seeking employment for others, or procuring or furnishing employees for others, tavern keepers, victualing house keepers, billiard, pool, pigeonhole and other like tables, nine or ten pin alleys, bowling saloons, shooting galleries; also to license, regulate or prohibit the use of bill boards and signs; also to license and regulate canvassing for orders for goods, and selling or contracting for the sale of goods by sample, where such articles are thereafter to be sent or delivered to the purchaser; also to license and regulate all persons vending, dealing in, giving away, or disposing of spiritous, vinous, fermented, malt or mixed liquors, and to designate the places where and conditions upon which any such liquors may be sold, and to prohibit the sale of such liquors in all or any part of such city. Provided, that no license for dealing in such liquors shall be issued for less than the minimum sum fixed by the general laws of the state, and that every such license shall terminate on the first day of July next following its issuance.

##### GAMBLING.

2nd. To restrain and prohibit all descriptions of gambling and fraudulent devices and practices, and all playing of cards, dice or other games of chance for the purpose of gambling in said city; and to prohibit the keeping of, and to authorize the seizure and destruction of all instruments and devices used for the purpose of gambling.

##### DISORDERLY PLACES AND CONDUCT. SALE OF LIQUORS.

3rd. To prevent any rioting, noise, disturbance, disorderly, noisy or boisterous behavior or conduct, and disorderly assemblages in said city; and to provide for the arrest and punishment of any person or persons who shall be guilty of the same, and to suppress



disorderly houses and houses of ill fame, and to provide for the arrest and punishment of the keepers and inmates thereof; and to restrain and prevent any person from vending or dealing in spirituous, fermented, malt, vinous or mixed liquors, unless duly licensed by the Council; also to provide for the punishment of minors and others to whom the sale of liquor is forbidden for obtaining liquor by falsely representing the facts.

#### UNHEALTHY OR NAUSEOUS PLACES OR TRADES.

4th. To compel the owner or keeper or occupant of any grocery, stable, barn, privy, sewer, drain, or other unwholesome or nauseous house, structure or place, to cleanse, remove or abate the same from time to time, as often as may be deemed necessary for the health, comfort or convenience of the inhabitants of said city, and to regulate and prohibit the erection, operation or maintenance of any of the same in such parts of the city as they may deem necessary for the health and comfort of the inhabitants of the city.

#### STOCK YARDS. SLAUGHTERING. BREWERIES. PAWN SHOPS. EXPLOSIVES.

5th. To regulate and prohibit the slaughtering of animals within said city; to regulate and control the location and management of hog pens, poultry yards, stock yards, slaughter houses, markets, booths, stalls, breweries, distilleries and pawnbrokers' shops, and to establish rates for the license vendors of gunpowder, and to regulate and control the storage, keeping and conveying of gunpowder, gun cotton, dynamite and other explosive materials, and to regulate the use thereof for blasting and other purposes, within said city, and to regulate and control the storage, keeping, dealing in and conveying of petroleum, gasoline, kerosene and other explosive or inflammable oils or substances within said city.

#### INCUMBERING OF STREETS.

6th. To regulate or prevent the incumbering of streets, sidewalks, alleys, lanes or public grounds with carriages, carts, wagons, sleighs, or other vehicles, boxes, lumber, cordwood, poles, awnings, signs, wires, ropes, timber, building material, buildings or other substances whatever; and the obstructing of the same in any manner whatever.

#### RAILWAY TRAINS. DRIVING IN STREETS. PLACES OF BATHING.

7th. To regulate the movement and speed of railway locomotives and cars, bicycles, motorcycles and automobiles, within said city; to require the maintenance of flagmen, and construction and maintenance of gates at the crossing of railway tracks, over such streets and avenues as said Council may direct; to regulate or prohibit the whistling of locomotive engines; to regulate or prohibit the unnecessary discharge of steam therefrom and the escape of steam therefrom unnecessarily; and to require the use thereon of such safety valves and other practical appliances as are designated for the purpose of preventing or lessening the noise from the discharge or escape of steam; and to prevent and punish horse-racing, immoderate driving or riding in the streets; to compel persons to

fasten their horses or other animals attached to vehicles or otherwise while standing in the street, and to compel the use of sleigh bells during the sleighing season; and to regulate places of bathing and swimming in the waters within the city limits.

#### ANIMALS RUNNING AT LARGE.

8th. To restrain the running at large of horses, mules, cattle, swine, sheep, poultry, geese or other animals, and to authorize the distaining and sale of the same and to impose a penalty on the owner or keeper of such animals for the violation of the ordinances; PROVIDED, that when the sale of such animals shall be made, the proceeds thereof, after deducting the expenses of distraining, keeping, advertising and selling of such animals, shall be deposited in the office of the City Treasurer for the use and benefit of the owner thereof, if called for within one year from date of sale; otherwise the same shall belong to the city.

#### PUTRID SUBSTANCES ON PREMISES.

9th. To prevent any person from placing, bringing, burying, or having within the city limits any putrid carcasses or other unwholesome substance, and to require the removal of the same by any person who shall have upon his premises any such substance, or any putrid or unsound meat, flesh, or fish, hides, or skins of any kind, and to authorize the removal of the same at the expense of such person or persons.

#### POUNDS. WATER WORKS. LIGHTING WORKS.

10th. To make and establish pounds, wells, cisterns, hydrants, reservoirs and fountains, and to provide for and conduct water into and through the streets, avenues, alleys and public grounds of the city; and to provide for and control the erection of water works in said city for the supply of water for said city and its inhabitants; and to grant the right of one or more private companies or corporations to erect and maintain water works for such purpose, and to authorize and empower such companies or corporations to lay water pipes and mains into, through and under the streets, avenues and public grounds of the city; and when necessary for carrying out the purpose of said companies or corporations, to appropriate private property in said city to the use of said companies or corporations in the manner provided in this charter for the appropriation of private property for public use; and to control the erection and operation of such water works, and the laying of such pipes and mains in accordance with such terms and conditions as may have been heretofore or shall be hereafter agreed upon between said city and said corporations or companies; to provide for and control the erection and operation of gas works, electric lights, or other works or material for lighting the streets and alleys, public grounds and buildings of said city and supplying light and power to said city and its inhabitants; and to grant subject to ratification by the voters of the city as hereinafter provided, the right to erect, maintain and operate such works with all rights incident or pertaining thereto, to one or more private companies or corporations, and to control the erection and operation of such works, and the laying of pipes, mains and wires into, through and under the

streets, avenues, alleys and public grounds of said city, and the erection of poles and mainstays; and the stringing of wires thereon, over, in, upon and across the streets, alleys and public grounds; to provide for and control the erection and operation of works for heating the public buildings of said city by steam, gas or other means, and supplying light, heat and power to the inhabitants of said city; to grant subject to ratification by the voters of the city as hereinafter provided, the right to erect such works and all incident rights to one or more private companies or corporations, and to control and regulate the erection and operation of such works, and the laying of mains into, through and under the streets, alleys and public grounds of said city; to grant subject to ratification by the voters of the city as hereinafter provided, to any person or persons, corporation or corporations the right to occupy and use the streets, alleys and public grounds of said city for the purpose of maintaining, operating and conducting, any railroad, telegraph, telephone or street car line, and to provide and regulate the manner in which the said streets, alleys and public grounds shall be used, as well as the length of time the uses shall continue; PROVIDED, that the Commission shall have authority to regulate and prescribe the fees and rates and charges of any and all companies hereinbefore mentioned.

#### BOARD OF HEALTH. HOSPITALS. BURIALS.

11th. To establish a Board of Health; to provide for hospitals and hospital grounds and the registration of births and deaths and the returns of bills of mortality, and to regulate and prevent, if deemed expedient, the burial of the dead within the city limits, and to provide for the removal of any mortal remains now interred within such limits.

#### INSPECTION AND WEIGHING OF PROVISIONS.

12th. To regulate the size and weight of bread and to provide for the seizure and forfeiture of bread baked for sale contrary thereto; to regulate the inspection of flour, pork, beef, salt, fish, whiskies and other liquors and provisions, and to appoint inspectors, measurers, weighers and gaugers, and to prescribe and regulate their duties.

#### DAMAGING STREETS, SIDEWALKS, ETC.

13th. To prevent all persons riding or driving any horse, mule or ox, or any other animal on the sidewalk in said city, or in any way doing damage to said sidewalks or to any curb, gutter, paving or street surface in said city, or to any pipes, mains, poles, posts, wires, trees, street numbers, grass plats, flowers or shrubbery in any street, alley or public ground in said city.

#### FIRE ARMS AND FIREWORKS.

14th. To prevent the discharge of fire arms, fireworks, or fire crackers in said city, and to prevent the exhibition of any fire works in any situation which may be considered by the Council dangerous to the city or any property therein, or annoying to any inhabitant thereof.

**RUNNERS.**

15th. To license, regulate, and restrain parties, runners, agents, and solicitors for boats, vessels, stages, cars, public houses or other establishments.

**DRUNKENNESS AND OBSCENITY.**

16th. To prevent open and notorious drunkenness, immoderate drinking, brawling and obscenity in the streets, alleys, stores, saloons and public places in the city.

**MARKETS.**

17th. To establish public markets and other public buildings, and make rules and regulations for the government of the same, and to prevent all persons from interrupting or interfering with the due observance of such rules and regulations; and to appoint suitable officers for overseeing and regulating such markets and stands.

**SHOPS FOR SALE OF MEAT, GRAIN AND PROVISIONS.**

18th. To license and regulate butcher-shops and stands for the sale of game, poultry, butcher's meats, butter, fish, and other provisions.

**WEIGHING AND MEASURING FUEL, HAY AND OTHER SUBSTANCES.**

19th. To regulate the place and manner of weighing and selling hay, straw, and other substances, and the measuring, weighing, and selling of firewood and other fuel, and to appoint suitable persons to superintend and conduct the same, and to fix their compensation.

**CLEANING SIDEWALKS AND LOTS AND DRAINING LOW GROUND.**

20th. To compel the owner or occupant of buildings or grounds to remove all ashes, dirt, rubbish or weeds from the sidewalks, streets or alleys opposite thereto, and compel such owner or occupant to remove from the lot owned or occupied by him all weeds and also all such substances as the Board of Health may direct, and in his default, to authorize the removal or destruction thereof by some officer of the city at the expense of such owner or occupant; also to compel owners of low ground where water is liable to collect and become stagnant, to fill or drain such low places; and in their default to authorize such filling or draining at the expense of the owner or owners; PROVIDED, that the Commission may require snow and ice to be removed as aforesaid throughout such districts or parts of said city as it shall direct; and may make the expense of any such removal or destruction of any such substance which the Board of Health may direct to be removed, and the expense of filling or draining any such low place a lien upon the property from which such substances are removed, or on which destroyed or on which said low grounds are filled or drained, and may make a special assessment for the same to be levied and collected as in case of other special assessments under this charter.



**PAUPERS AND PERSONS EXPOSED TO CONTAGIOUS DISEASES.**

21st. To prevent, control and regulate the landing of persons from boats, vessels, cars or other conveyances whereon are contagious or infectious diseases or disorders, and to make such disposition of such persons as to preserve the health of the city; and also to regulate, control and prevent the landing of paupers and persons in destitute condition in the city, not having a regular settlement or residence therein, and to require that such persons be taken back to the place from where they may have been brought, or where they reside, by the persons or corporation bringing or leaving them in said city.

**AUCTIONS.**

22nd. To regulate the time, manner and place of holding public auctions and vending.

**INSPECTION OF PROVISIONS, MEAT AND LIQUORS.**

23rd. To regulate the inspection of wood, hay, flour, pork, beef, mutton, veal, and all other kinds of meats, poultry, and game, fish, salt, milk, whiskies and other liquors, and provisions, and to provide for the taking and summarily destroying or disposing of to soap factories to be used only as soap grease any diseased, unsound or unhealthy pork, beef, mutton, veal, game, poultry, fish, or any other kind of meat, in case the owner does not at once so destroy or so dispose of the same, and to provide for taking and summarily destroying any spoiled, unsound or unhealthy flour or other provisions.

**PLANTING OF SHADE AND ORNAMENTAL TREES.**

24th. To direct and regulate or prohibit the planting or preservation of ornamental trees in the streets, alleys, public grounds and highways of the city or any portion thereof.

**ABATING NUISANCES.**

25th. To remove and abate any nuisance, obstruction or encroachment upon the streets, alleys, public grounds or highways of the city.

**PRESERVATION OF THE PUBLIC HEALTH.**

26th. To do all acts and make all regulations which may be necessary or expedient for the preservation of the public health, and the suppression of disease, and to make regulations to prevent the introduction of contagious diseases into the city and to make necessary quarantine laws and enforce them within the city.

**ABATING NUISANCES INJURIOUS TO PUBLIC HEALTH.**

27th. To remove, abate and prohibit any nuisance injurious to the public health, and to provide for the punishment of all persons who shall cause or maintain such nuisance.

**VAGRANTS AND PROSTITUTES.**

28th. To restrain and punish vagrants, tramps, mendicants, street beggars and prostitutes.

### HITCHING POSTS AND HATCHWAYS.

29th. To provide for and regulate the erection of hitching posts and rings for fastening horses and other animals, or to prohibit them in any part of the city at its discretion; and to regulate the construction, opening and use of hatchways, and to compel the proper guards about the same.

### NUMBERING OF HOUSES AND LOTS.

30th. To provide for and regulate the numbering of houses and lots, and to compel the owners and occupants of houses or buildings to have the number of such houses and buildings designated thereon.

### STEAM BOILERS AND VEHICLES PROPELLED BY STEAM.

31st. To regulate or prohibit the location or use of such steam boilers as it may designate as being dangerous to life or property, or to prohibit the location of any such steam boiler except when permission therefore is first given by the Commission specifying the location and prescribing the regulations for its use; and to regulate the propelling by steam, gasoline and electricity of motors, traction engines and other vehicles over or upon the streets of said city.

### GAS AND GAS WORKS.

32nd. To regulate and control the quality and measurements of gas, to prescribe and enforce rules and regulations for the manufacture and sale of gas, the location and construction of gas works, and the laying, maintaining and repairing of gas pipes, mains and fixtures, to provide for the inspection of gas and gas meters, and to appoint an inspector if needed, and to prescribe his duties.

### PLACING OF ELECTRIC AND OTHER WIRES.

33rd. To regulate and control or prohibit the placing of poles therefor and the suspending of electric or other wires along or across the streets of said city, and to require any or all wires already placed or suspended or that may hereafter be placed or suspended either within limited districts or throughout the city, to be removed or to be placed in such manner as it may designate, beneath the surface of the street or sidewalk.

### WOOD AND BUILDING MATERIAL. FACTORIES. INFLAMMABLE AND EXPLOSIVE SUBSTANCES.

34th. To regulate the measurement of lumber, shingles, timber, stone, lime, cement and building material; as designated where lumber, shingles, lath and mill wood piles shall not be maintained, and to regulate the piling of lumber, shingles or lath in said city; and to require any person maintaining any lumber, shingles or lath pile in said city to remove the same when it may become dangerous to any building or buildings or other property near the same; also to regulate and designate where the following kinds of business or amusements may be or may not be hereafter located or carried on, to-wit: Wind mills, wood yards, foundries, machine shops, wood-working shops, tanneries, factories, dye houses, boiler shops, rendering houses, glue factories, soap factories, storehouses for oil,

gunpowder, dynamite, petroleum or other dangerous explosives or other oils or substances, storehouses for hides, stables, roller rinks and base ball grounds.

#### DANGEROUS BUILDINGS.

35th. To remove or require to be removed any buildings which by reason of delapidation or defects in structure or other causes may have or shall become dangerous to life or property, and to provide for the punishment of all persons who shall cause or maintain such nuisances. The expense incurred in making such removal shall be a lien upon the lot or parcel of land on which such building was situated, and may be assessed and collected in the same manner as other special assessments.

#### FIRE ESCAPES AND EXTINGUISHERS.

36th. To require the owner or occupant of any building or structure now or hereafter built or constructed in said city to place therein such fire escapes and such appliances for protection against, and for extinguishing of fires as it may direct; and also to require such owner or occupant to construct, provide and furnish any building with means of egress in such manner as it may deem necessary and expedient to lessen the danger to human life in case of fire or accident.

#### WIDTH OF WHEEL TIRES. MAXIMUM LOAD ON STREETS.

37th. To regulate and designate the width of tires on all wheels used on any and all vehicles used in said city, and regulate the maximum weight of any load to be drawn on any street in said city, and may designate upon what streets heavily loaded vehicles may be drawn, and from what streets the same shall be excluded.

#### REMOVAL OF PARTIALLY DESTROYED BUILDINGS.

38th. To require owners of buildings or other structures which shall have been destroyed by fire or otherwise, to take down the same or any part thereof to prevent accident, and in case of refusal or neglect of said owner to take down the same when ordered by any officer authorized so to do by any ordinance or by the Commission, then to cause the same to be done at the expense of the owner and to collect the cost thereof by special assessment on the land on which the same stands.

#### HACKMEN AND DRAYMEN.

39th. To license and regulate hackmen, draymen, expressmen and all other persons engaged in carrying passengers, baggage and freight, and to regulate their charges therefor; to prescribe standing places at stations within the streets where such hacks, drays or other vehicles used for such carriages may stand or remain while waiting for business or orders, and to designate such standing or waiting place of horses of such draymen, hackmen or other persons, and to prohibit them from standing or waiting at any other place within the streets; and to regulate and prescribe standing places for all vehicles going to or waiting at any railroad depot or station in said city and to authorize the Mayor and all police officers of said city



to regulate and direct the location of vehicles at such railroad depot or station.

#### CONSTRUCTION OF BUILDINGS.

40th. To regulate the construction of all buildings within the city; to prescribe the depth of cellars, the material and mode of construction and location of drains and sewer pipes; the thickness, material and construction of party walls and outside walls, the size and material or girders, stays, columns, roof, chimney, floor and heating apparatus; to regulate the height and size of the building to be erected; to regulate the construction and location of privies and vaults in such buildings; to prohibit the construction of buildings not conforming to such prescribed standard within the whole city or within such building limits as it may prescribe or establish, alter or enlarge from time to time; to direct the suspension of any such building operation as shall not conform with such regulation; to provide for the issuing of building permits by the Commission, and to prohibit the erection of any building without such permit.

#### REMOVAL OF GARBAGE. PRIVIES.

41st. To require and provide for the removal in such manner with private parties or associations or otherwise throughout the city, or in such streets or districts as it may determine, of any swill, offal, garbage, ashes, barnyard litter, manure, yard cleanings or other foul or unhealthy stuff, and to assess the expense of such removal upon the property from which such above matter or things shall be taken; and to direct, locate, regulate and prohibit the construction of privies and to prescribe the limits within which no privies shall be constructed unless connected with public sewers.

#### RAILWAY CROSSINGS.

42nd. To compel railroad companies to grade the crossings of streets across all railways in the city, the full length in their right of way in said streets, and to keep the same in repair, and to build and maintain suitable sidewalks across the right of way in said streets for the accommodation of foot passengers and to build and maintain culverts, drains and sewers across the full width of the right of way in the streets, alleys and highways in said city; and to regulate and prohibit any railroad companies, their servants or employees from obstructing the streets or crossings in said city.

#### CHIMNEYS AND SMOKESTACKS. UNSAFE BUILDINGS.

43rd. To regulate the construction and building of chimneys and smokestacks within the limits of the city; also the emission of dense smoke; to prohibit the erection and maintenance of any insecure or unsafe building, cracked wall or chimney and the emission of dense smoke in said city, and to declare the same or any part thereof to be a nuisance, and to provide for their summary abatement.

#### NUISANCES.

44th. To define and declare what shall constitute a nuisance and to prohibit all persons from committing or continuing such nuisance or suffering the same to exist, and to provide for the re-

moval and abatement of any nuisance, and for the assessment and collection of the expense thereof against the property upon which the same is located.

#### CARRYING OF DANGEROUS WEAPONS.

45th. To license, regulate or prohibit the carrying or wearing of concealed, dangerous or deadly weapons, and to provide for the confiscation thereof.

#### CUTTING OF ICE.

46th. To control and regulate the cutting of ice in the Mississippi river or in Lake George within the limits of said city.

#### PENNING AND PASTURING ANIMALS.

47th. To regulate the penning, herding and pasturing of animals within said city.

#### PLUMBING.

48th. To provide for licensing plumbers, and for the revocation of such licenses, to fix the fee and the amount, terms and conditions of the bond, for any such license, and the length of time such license shall remain in force; to prohibit any person not a license plumber from doing plumbing in said city; to prescribe rules and regulations for doing plumbing, the materials with which the same shall be done; to provide for inspections of the same, and for the issuance of permits, for any job or jobs of the same, and to prohibit the doing of any of the same without such permit; to prescribe the terms and conditions upon which such permits may be issued, the terms and conditions to be contained in such permit, by whom the same may be issued, by whom the same may be revoked and what additional terms and conditions may be added to such permit by the officer issuing the same, and to prescribe penalties for the violation of any of the terms or conditions of any such license or permit.

#### ELECTRICIANS.

49th. To provide for licensing Electricians and for the revocation of licenses so granted and to fix the fee and the amount, terms and conditions of the bond for any such license and the length of time such license shall remain in force; to prohibit any person not a licensed electrician from hanging or placing any electric light, telephone, telegraph or messenger service or power wires in said city, either in or out of any building therein, or setting up or putting in place any apparatus for generating, conveying or using electricity for light, telephone, telegraph, messenger service or power purposes; to prescribe rules and regulations for installing or placing any such wiring or apparatus; to provide for inspecting the same and for issuance of permits for any job or jobs of the same, and to prohibit the doing of the same without first obtaining the approval of such electrical inspectors as the Commission may appoint; to prescribe the terms and conditions upon which such permit may be issued, by whom the same may be issued, by whom the same may be revoked and with the additional terms and conditions may be added to such permit by the officers issuing the same; and to

prescribe penalties for the violation of any of the terms or conditions of any such license or permit.

#### CIVIL SERVICE BOARD.

50th. To establish a Board of Civil Service, the members of which shall be appointed by the Commission and who shall serve without compensation. Such Board shall have power to make rules and regulations to effect its purpose and among other things shall provide for the classification of all employments in the administrative service of the city not excepted by the provisions of the Charter; for open, competitive and free examinations as to fitness, for an eligible list from which vacancies shall be filled, for a period of probation before employment is made permanent, and for promotion on the basis of merit, experience and record.

#### CIVIC ART BOARD.

51st. To establish civic art board, the members of which shall be appointed by the Commission and who shall serve without compensation.

#### PARK BOARD.

52nd. To establish a park board, the members of which shall be appointed by the Commission and who shall serve without compensation.

#### PLAYGROUND BOARD.

53rd. To establish a play-ground board, the members of which shall be appointed by the Commission and who shall serve without compensation.

#### BOARD OF PUBLIC CHARITIES.

54th. To establish a board of public charities, the members of which shall be appointed by the Commission and who shall serve without compensation.

#### RATIFICATION OF FRANCHISE.

Section 75. Every grant by the Council of any franchise to use the streets and alleys of the city by any person or corporation engaged in a public service business, shall be submitted to the voters of the city at a special election held not less than ten days after notice in the usual manner has been given of such election. Not less than one week before such election, the city clerk shall cause to be published in the official newspaper of the city a copy of the ordinance which is subject to ratification at said election. If a majority of the electors voting at such election, vote in favor of such ratification, said ordinance shall take effect according to its terms.

#### ANNUAL STATEMENT.

Section 76. Every person or corporation exercising any franchise to use the streets and alleys of the city, shall file annually in the office of the city clerk within thirty days after the close of such person's or corporation's fiscal year, a statement of the earnings and expenditures of such public service business. Said statement shall specify the amount expended during the year under each of the following heads separately: (a) operating expenses and upkeep;

(b) betterment and extensions; (c) salary of officers of the corporation; (d) dividends; (e) interest paid on indebtedness; (f) and such other items as may be requested by the Council. Said statement shall be open to public inspection. The franchise of any corporation or person filing a false statement, or failing to file such statement as hereinabove is required within one month after the close of its fiscal year, shall lapse, and is hereby declared forfeited.

#### APPRAISERS.

Section 77. Preliminary to any change by order of the Commission in the fees, rates and charges of any public service business, the Commission may create a board of three appraisers, whose duty it shall be to appraise the value of the personal and real property of the corporation or person in question which is used as plant or equipment in the public service business, and to report said valuation to the Commission together with recommendations as to what in the opinion of said board are just, fair and equitable fees, rates and charges for the services of such corporation or person. Said Board shall be constituted as follows: One member shall be elected by the Commission, one shall be selected by the corporation or person whose business is to be appraised, and the third shall be selected by the Judges of the District Court, of the Districts in which said city is situated.

#### CITY MAY PURCHASE PLANT OF PUBLIC SERVICE CORPORATION.

Section 78. Said city at the end of any period of five years from granting of a franchise for the operation of any street railway, telephone, waterworks, gas works, or any electric light, heat or power works, when authorized so to do by a two-thirds majority of the votes cast upon the question, may acquire and thereafter operate the same upon the paying to the corporation or person owning the franchise the value of such property, to be ascertained in the manner provided by law for acquiring property under the right of eminent domain, upon petition of its governing body. Such vote shall be taken at a special election called for that purpose, and held within three months next preceding the expiration of said five year period. The consideration of such works or property shall first be applied to the payment of any incumbrance thereon, and the remainder, if any, shall be paid to the owner of said franchise.

#### PENALTIES FOR VIOLATION OF ORDINANCES.

Section 79. The Council may impose punishments for the violation of any ordinances of the city, or of any portion thereof, to the extent of a fine of not exceeding one hundred dollars (\$100.) or imprisonment in the city prison or county jail not exceeding ninety (90) days.

#### WORKHOUSE OFFENDERS KEPT AT HARD LABOR.

Section 80. The Council may also provide by ordinance that any one convicted of an offense before a City Justice subjecting such offender to punishment under the charter and ordinances of said city, may be kept at hard labor in any workhouse established or designated for that purpose, and in case of male offenders may be kept at



hard labor during his term of imprisonment in such workhouse, or upon the streets, highways, or public works or improvement of said city, or any or all of them; and may also provide an ordinance that anyone convicted of an offense before a City Justice, and committed upon non-payment of the fine imposed, may be kept at hard labor in any workhouse of said city as aforesaid, or in case of male offender may be kept at hard labor either in such workhouse or upon the public streets, public works or improvements, or both, until such person shall work out such fine at such rate of compensation as the Council may prescribe for a time not exceeding the time for which he is committed, and the Council shall have full power to establish by ordinance or otherwise, all useful rules and regulations for the security of such persons, and to prevent the escape of such persons; Provided, that unless otherwise ordered by the Council, the county jail of the county of Stearns shall be used as the city prison or workhouse of the said city; and it shall be the duty of the Sheriff or Jailor of said County to take into custody and safely keep in jail all persons committed thereto unless discharged according to law; and when said jail is to be used, the prisoners of the city shall be in custody of the Sheriff of said Stearns county, except while working on the streets, public works or improvements of the city as aforesaid, during which time they shall be under the control of the police force of said City; PROVIDED FURTHER, that the police of said city are authorized to take any prisoner from said jail who has been sentenced to work upon the streets, public works or improvements of said city for the purpose of carrying such sentence into effect.

#### ORDINANCES AND BY-LAWS, HOW PASSED AND APPROVED.

Section 81. Ordinances and by-laws shall be passed by an affirmative vote of a majority of all the members of the Council by yeas and nays which shall be entered in the record; every ordinance shall be signed by the President and published in the official paper of the city, or in such other manner as the Council may provide, before it shall take effect. No ordinance shall be passed at the same meeting of the Council at which it shall have been presented except by the unanimous consent of all members present, which shall be noted in the record, but this shall not preclude the passage at the meetings at which they are introduced of ordinances reported by any committee of the Council to whom the subject of such ordinance shall have been referred at any previous meeting.

#### ORDINANCES AND AFFIDAVITS TO BE RECORDED.

Section 82. All ordinances after the same are approved shall be recorded by the City Clerk in a book provided for that purpose; and the affidavit of the publication thereof shall be recorded therewith; and the record of said ordinance and affidavit of said publication shall at all times be deemed and taken as sufficient evidence of such ordinance and publication.

#### COURTS TO TAKE JUDICIAL NOTICE OF ORDINANCES.

Section 83. All courts of this state shall take judicial notice of all ordinances of said city, and it shall not be necessary to plead or prove such ordinance in any court.

**COUNCIL MEETING PUBLIC.**

Section 84. All meetings of the Council shall be open to the public.

**MANNER OF VOTING.**

Section 85. Upon every vote unless it is unanimously carried or rejected, the ayes and nays shall be called and recorded and every motion, resolution and ordinance shall be reduced to writing and read before the vote is taken thereon.

**LICENSES HOW REVOKED.**

Section 86. Any license issued by authority of any ordinance may be revoked at any time by the Mayor or Commission, and upon conviction before any court of any person holding such license, for a violation of the provision of any ordinance relating to the existence of any right granted by such license, the court may revoke such license in addition to the penalty provided by law or by ordinance for any such violation, and the second conviction of any such violation shall operate to revoke such license without any further act or ceremony.

**NO ORDINANCE TO LIMIT POWER OF COMMISSION.**

Section 87. Any ordinance limiting the powers of the Commission as in this Charter set forth shall be void and of no effect.

**COMMON COUNCIL.**

Section 88. The Common Council as it existed under the former Charter is hereby abolished.

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**CHAPTER VII.****THE INITIATIVE.****DIRECT LEGISLATION.**

Section 89. Any proposed ordinance may be submitted to the Council by petition signed by registered electors of the city equal in number to the percentage hereinafter required.

**PROVISIONS OF CHAPTER TWO APPLY.**

Chapter II, respecting the forms and conditions of the petition and the mode of verification and certification and filing shall be substantially followed with such modification as the nature of the case requires, provided, however, that no person shall be received as a petitioner until he shall have taken and subscribed an oath that he has read the proposed ordinance and knows the contents thereof and that in his opinion the passage of said ordinance will be for the general welfare and benefit of the city.

**FIFTEEN PER CENT PETITION.**

Section 91. If the petition accompanying the proposed ordinance be signed by electors equal in number to fifteen per centum of the entire vote cast for Mayor at the last preceding general municipal election, and contain a request that said ordinance be submitted



forthwith to a vote of the people at a special election then the Council shall either:

a. Pass said ordinance without alteration within twenty days after the attachment of the Clerk's certificate of sufficiency to the accompanying petition (subject to a referendary vote, under the provisions of this Charter) or,

b. Within twenty-five days after the Clerk shall have attached to the petition accompanying such ordinance his certificate of sufficiency, the Council shall proceed to a call a special election at which said ordinance without alteration shall be submitted to a vote of the people.

#### FIVE PER CENT PETITION.

Section 92. If the petition be signed by electors equal in number to at least five, but less than fifteen per centum of the entire vote cast for Mayor at the last preceding general municipal election, and said ordinance be not passed by the Council as provided in the preceding subdivision, then such ordinance, without alteration, shall be submitted by the Council to a vote of the people at the next general municipal election that shall occur at any time after twenty days from the date of the Clerk's certificate of sufficiency attached to the petition accompanying such ordinance.

#### PUBLICATION OF POPULAR ORDINANCE.

Section 93. Whenever any ordinance or proposition is required by this chapter to be submitted to the voters of the City at any election either (a) the Council shall cause the ordinance or proposition to be printed and it shall be the duty of the Clerk to enclose a printed copy thereof, in an envelope with a sample ballot and mail the same to each voter, at least three days prior to the election, or, (b) the Council may order such ordinance or proposition to be printed in the official newspaper of the city and publication in like manner as ordinances adopted by the Council are required to be published, and may order that such publication shall take the place of the printing and mailing of the ordinance or proposition and of the sample ballots as first above provided.

#### ELECTION.

Section 94. The ballots used when voting upon such proposed ordinances shall contain the words "For the Ordinance," (setting forth in full the title thereof and stating the general nature of the proposed ordinance), and "Against the Ordinance." (setting forth in full the title thereof and stating the general nature of the proposed ordinance). If a majority of the qualified electors voting on said proposed ordinance shall vote in favor thereof, such ordinance shall thereupon become a valid and binding ordinance of the City.

#### SEVERAL ORDINANCES AT ONE ELECTION.

Section 95. Any number of proposed ordinances may be voted upon at the same election, in accordance with the provisions of this article.

#### LIMIT OF SPECIAL ELECTIONS.

Section 96. There shall not be held under this article of the Charter more than one special election in any period of six months.

#### REPEAL OF POPULAR ORDINANCE.

Section 97. The Council may submit a proposition for the repeal of any such ordinances or for amendments thereto to be voted upon at any succeeding general municipal election; and should such proposition so submitted, receive a majority of the votes cast thereon at such election, such ordinance shall be repealed or amended accordingly. An ordinance proposed by petition, or adopted by a vote of the people, cannot be repealed or amended except by a vote of the people.

#### FURTHER REGULATIONS.

Section 98. The Council may, by ordinance, make such further regulations as may be necessary to carry out the provisions of this section and to adapt the provisions of Chapter II. thereto.

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### CHAPTER VIII.

#### THE REFERENDUM.

##### MODE OF PROTESTING AGAINST ORDINANCES.

Section 99. No ordinance passed by the Council shall go into effect before thirty days from the time of its final passage except when otherwise required by the general laws of the State or by the provisions of this Charter, except an ordinance for the immediate preservation of the public peace, health or safety, which contains a statement of its urgency, and is passed by the unanimous vote of the Council; provided, that no grant of any franchise shall be construed to be an urgency measure, but all franchises shall be subject to the referendum vote herein provided. If, during said thirty days, a petition signed by qualified electors of the City equal in number to at least ten per centum of the entire vote cast for Mayor at the last preceeding general municipal election, protesting against the passage of such ordinance, be presented to the Council, the same shall thereupon be suspended from going into operation, and it shall be the duty of the Council to reconsider such ordinance and if the same be not entirely repealed, the Council shall submit the ordinance, as is provided in Chapter VII. of this Charter, to the vote of the electors of the City, either at the next general municipal election or at a special election to be called for that purpose, and such ordinance shall not go into effect or become operative unless a majority of the qualified electors voting on the same shall vote in favor thereof. The provisions of Chapter II., respecting the forms and conditions of the petition and the mode of verification and certification and filing shall be substantially followed, with such modifications as the nature of the case requires, provided, however, that no person shall be received as a petitioner until he shall have taken and subscribed an oath that he has read the ordinance under consideration and knows the contents thereof and that in his opinion the adoption of said ordinance will not be for the general welfare and benefit of the City.

##### REFERENCE OF MEASURES TO POPULAR VOTE.

Section 100. Any ordinance or measure that the Council or the qualified electors of the City shall have authority to enact, the

Council may, of its own motion, submit to the electors for adoption or rejection at a general or special municipal election, in the same manner and with the same force and effect as is provided in this Charter for ordinances or measures submitted on petition. At any special election called under the provisions of this Charter, there shall be no bar to the submission of other questions to a vote of the electors in addition to the ordinances or measures herein provided for, if said other questions are such as may legally be submitted at such election. If the provisions of two or more measures approved or adopted at the same election conflict then the measures receiving the highest affirmative vote shall control.

#### FURTHER REGULATIONS.

Section 101. The Council may by ordinance, make such further regulations as may be necessary to carry out the provisions of this article and to adapt the provisions of Chapter II. thereto.

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### CHAPTER IX.

## RECALL OF ELECTIVE OFFICERS.

#### APPLIES TO ALL ELECTIVE OFFICERS.

Section 102. Every incumbent of an elective office, whether elected by popular vote or appointed to fill a vacancy, is subject to recall by the voters of the City. The procedure to effect such removal from office shall be as follows:

#### PETITION FOR RECALL.

Section 103. A petition signed by qualified electors equal in number to twenty per centum of the entire vote cast for Mayor at the last preceding general municipal election demanding an election of a successor of the officers sought to be removed, shall be addressed to the Council and presented to the City Clerk. The petition must contain a statement of the reasons for the demand.

#### PROVISIONS OF CHAPTER II. APPLY.

Section 104. The provisions of Chapter II. respecting the forms and conditions of the petition and filing shall be substantially followed, with modifications as the nature of the case requires.

#### ELECTION UNDER RECALL PETITION.

Section 105. If the officer sought to be removed shall not resign within five days after the petition is filed by the City Clerk, the Commission shall cause a special election to be held not less than thirty days or more than forty days from date of the filing of such petition by the City Clerk to determine whether the people will recall said officers, or, if a general election is to occur within sixty days, the Commission may, in its discretion, postpone the holding of such election to such general municipal election.

#### GROUND OF RECALL. OFFICER'S JUSTIFICATION.

Section 106. In the published call for the election there shall be printed in not more than two hundred words the reason for de-

manding the recall of the officers as set forth in the recall petition, and in not more than two hundred words the officer may justify his course in office.

#### CANDIDATES ELECTION.

Section 107. The officer sought to be removed shall be deemed a candidate and, unless he resigns, his name shall be printed on the ballot. The nomination of other candidates and the election shall be in accordance with the provisions of Chapter II.

#### INCUMBENT REMOVED.

Section 108. The officer sought to be removed shall, if he does not resign, continue to perform the duties of his office until the election and if he fail of election, he shall be deemed removed from office.

#### NO RECALL PETITION FOR FIRST SIX MONTHS.

Section 109. No recall petition shall be filed against any officer until he has actually held his office for at least six months.

#### INCAPACITY OF RECALLED OFFICIAL.

Section 110. No person who has been recalled from an elective office, or who has resigned from such office while proceedings were pending against him shall be appointed to any office within one year after such recall or resignation.

#### FURTHER REGULATIONS.

Section 111. The Council may, by ordinance, make such further regulations as may be necessary to carry out the provisions of this Chapter, and to adapt the provisions of Chapter II. thereto.

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### CHAPTER X.

## TAXES AND FINANCES.

#### FISCAL YEAR, WHEN TO COMMENCE.

Section 112. The Commission may determine the time of the commencement of the fiscal year of said city, and until otherwise determined such fiscal year shall commence on the first day of May of each year.

#### PROPERTY SUBJECT TO TAXATION.

Section 113. All property in the City of St. Cloud, taxable under the laws of the State, shall be subject to taxation for the support of the City government and the payment of its debts and liabilities, and the same shall be assessed as provided for by law, and this Charter.

There shall be maintained in the city treasury the following funds, and the Commission may levy an annual tax upon all taxable property in the city for the support of such funds and the purposes following, that is to say:

First: An interest fund, for which there shall be levied a sum sufficient to provide for the payment of the interest to become due during the next fiscal year, upon the indebtedness of the city. Out of such fund interest only shall be paid.



Second: A sinking fund shall provide for the payment when due of bonds or other funded debt of the city. For the maintenance of this fund there shall be levied an annual tax not to exceed five mills on the dollar of the assessed valuation of all taxable property in the city. This fund shall be applied only to the payment of the principal of bond issued by the city. There shall also be assigned and placed in the sinking fund five per cent of all license fees and fines collected by the city.

Third: A fire department fund to provide for the maintenance of the fire department.

Fourth: A police department fund, to provide for the maintenance of the police department, and the care and custody of prisoners in its custody.

Fifth: A light fund to provide for the lighting of said city and the public buildings thereof, whether the same be done by the city or by individuals or corporations.

Sixth: A water fund to provide for hydrant rentals, and water used for sprinkling, in public buildings, and other municipal purposes, whether the same be furnished by the city or by the individuals or corporations.

Seventh: A road and bridge fund, to provide for the engineering department, the cleaning and repairing of streets, sewers and sidewalks, cross-walks and bridges.

Eighth: A health department fund, to provide for the support of the health department.

Ninth: A Justice Court fund to provide for the support of the Justice Courts.

Tenth: A salary fund, to provide for the payment of the salaries of the city officers, and of clerk hire not otherwise provided for, but which may be authorized by law.

Eleventh: A printing and supply fund, to provide for printing and supplies for all departments of the city, not provided for by any other fund mentioned in this chapter.

Twelfth: A library fund, to provide for the support of the public library.

Thirteenth: A park fund, to provide for the purchase and maintenance of public parks. There shall be paid out of said fund all salaries and expenses incurred by the Commission on account of parks or parkways and in the operation and maintenance of the park system of the city, and also the cost of acquiring, laying out, extending or improving any park or parkway, or planting and caring for trees.

Fourteenth: A water-works and light-plant fund to provide for the support and maintenance of any plant owned or operated by the City for furnishing to the city or its inhabitants, water or light, and of paying the costs of the purchase, construction, extension, operation, maintenance and repair of such water and light plant.

This fund shall not be maintained by taxation, but there shall be paid into it all moneys derived from the sale of any property acquired for or used in connection with any water and light plant of the City; also the proceeds of all special assessments levied on account of or in connection with such water and light plant, also such amounts as may from time to time, be realized from the sale of bonds issued on account of said plant; and also all moneys received from the sale



of said plant, including water and light, rentals and penalties. The surplus in this fund at the close of each fiscal year, may, if the Commission elect, be paid into the sinking fund.

Fifteenth: A permanent improvement fund, for the purpose of paying the cost of all real property, and all rights therein, and all improvements thereon, which the city shall acquire for its various purposes, and the payment for which is not otherwise provided for out of other funds, and also for the purpose of paying such portions of the expenses of local improvements as shall devolve upon the said city. There shall also be paid into this fund all moneys received from the sale of any permanent improvements or property of the city, not otherwise disposed of under this Charter, and also such amounts as may from time to time be realized from the sale of bonds issued on account of this fund.

Sixteenth: A general fund, to provide for all current and incidental expenses of and judgments against the city not otherwise provided for, and such other disbursements as may be authorized by law. There shall be paid into this fund all moneys received from any source save when received for a specified use and purpose.

Seventeenth: A permanent improvement revolving fund for the purpose of providing moneys for paying for that portion of local improvements, under the provisions of this Charter, for which assessments may be levied, but it shall not be supported by taxation. There shall be paid into it all moneys received from all special assessments levied under this Charter for local improvements, and also such amount as may be realized from the sale of bonds, warrants or certificates authorized therefor in this Charter.

Provided, that nothing contained herein shall prevent the Commission from borrowing from the general fund to aid and help any other fund at such time as in its judgment public necessities require, but the Commission shall have no power to borrow from any fund except the general fund. If any sum is borrowed from the general fund, as aforesaid, it shall be returned not later than the next fiscal year.

Moneys (1) in the city treasury at the time this Charter goes into effect, (2) to be collected from taxes levied before this Charter goes into effect shall so far as practicable be divided among the several funds hereby established, and where such sub-division is not practicable, shall be kept in the general fund. The Commission by resolution shall provide for such sub-division in accordance with the directions herein contained.

Where, prior to the time that this Charter goes into effect an assessment has been levied to cover the cost of a local improvement, which improvement has not at said time been paid for, the proceeds of such assessment shall be paid into the permanent improvement revolving fund, and the cost of said improvement shall be paid out of said fund.

From the general fund the Commission may in any year by resolution appropriate a sum not to exceed one thousand five hundred dollars for contingent expenses incurred or to be incurred by the Mayor for the general welfare of the city and its people. The Mayor shall report the use to which this fund is put at the end of every three months.

**TAXES LEVIED BY RESOLUTION, FORM.**

Section 114. All taxes shall be levied by resolution of the Commission, and no tax shall be invalid by reason of any informality in the manner of levying the same, nor because the amount levied shall exceed the amount required to be raised for the purpose for which the same is levied; but in such case the surplus shall go into the fund to which such tax belongs, and may be applied to the future use of such fund.

**RULES GOVERNING ASSESSMENTS.**

Section 115. In all respects not herein expressly provided for, the City Assessor and his deputies shall, in making assessments, be governed by the rules, both in respect to the property to be listed and assessed, and the manner of listing and assessing the same, which are or may be prescribed by the general laws of the state for the government of assessors. The assessment shall be completed as soon as may be after the first day of May and shall be returned to the Commission on or before the fourth Monday of July of each year.

**BOARD OF EQUALIZATION.**

Section 116. The Commission shall constitute a City Board of Equalization, who shall be sworn according to law as such Board and shall meet in the Commissioner's room in said city on the fourth Monday of July of every year, for the purpose of reviewing the assessment, and shall alter, revise, amend and equalize said assessment as they deem just and proper. It shall be the duty of the City Assessor to be present at all meetings of said Board of Equalization for the purpose of presenting to the Board all facts relating to the assessment. Such Board of Equalization is vested with and shall perform all the powers and duties which are or may be vested in or imposed upon either town or county boards of equalization, under the general laws of the state, so far as applicable, but shall not be restricted by any limitation in respect to reducing aggregate sums of real or personal property, as returned by the assessor, and may raise the valuation of any real estate without notice to the owner; said assessment so equalized shall be subject to review only by the State Board of Equalization.

**BOARD OF EQUALIZATION. ADJOURNMENTS. CLERK. HEARING BEFORE.**

Section 117. Said Board of Equalization may sit from day to day, or adjourn from time to time, as it shall deem proper, until it shall have completed the equalization of such assessments. The City Clerk shall be ex-officio clerk of said board. Every person aggrieved by an assessment shall have the right to appear before such Board and present his grievance for its consideration. It shall be the duty of the City Attorney to attend the hearing of such grievances before said Board and whenever it appears that any property is listed or assessed at less than its true value, to call the attention of the Board to such undervaluation and to make application in behalf of the city for the correction of the same.

**ASSESSMENT ROLL FOR EACH COUNTY. AUTHENTICATION.**

Section 118. The assessor shall make a separate assessment

roll for each county within which portions of said city may lie, of the property to be assessed by him and taxable in such county. When the assessment rolls shall be revised by the Board of Equalization and the proper corrections made therein, the several rolls shall be returned to the Auditors of the respective counties in which the property listed therein is taxable, as other assessment rolls. After such equalization the City Clerk shall attach to such assessment roll a certificate which may be substantially in the following form:

I hereby certify that the assessments in the assessment roll to which this certificate is attached have been equalized by the Board of Equalization of the City of St. Cloud, and appear therein as so equalized by said board.

Dated.....

..... City Clerk.

Such equalization shall require no further authentication.

#### ANNUAL BUDGET.

Section 119. The Commission shall meet annually in the month of September prior to the tax levy and make a budget of the estimated amounts required to pay the expenses of conducting the business of the city for the next ensuing fiscal year.

#### TAXES. STATEMENT OF TRANSMITTED TO COUNTY AUDITORS. HOW COLLECTED AND PAID OVER.

Section 120. The Commission shall cause to be transmitted to the respective County Auditors of the several counties in which portions of the city may lie, on or before the third Monday of October of each year a statement of all taxes by them levied, except as otherwise provided in this charter, and such taxes as well as all assessments for local improvements, statements of which shall be there with transmitted to such Auditors as provided in chapter eleven of this Charter, shall be collected and the payment thereof enforced with, and in like manner as, state and county taxes are paid and the payment thereof enforced; and the several County Treasurers of said counties shall pay over all city taxes by them collected, together with all penalties and interest which shall be collected on account of the same to the Treasurer of the City of St. Cloud at the times provided by law in case of town taxes; and in the several settlements of the funds to be paid over as provided by general law, said County Treasurer shall account for and pay over to the City Treasurer such portion of the interest paid by bankers with whom said funds of said county are deposited, as may have accrued upon funds arising from city taxes and assessments so deposited with such county funds, or as part thereof.

#### COUNTY TREASURER TO ADVANCE MONEY TO CITY. WHEN.

Section 121. Whenever previous to any of the settlements provided for by law there shall be a lack of funds in the city treasury for any purpose, and there shall be funds in any county treasury for any purpose collected on account of city taxes or assessments, such County Treasurer shall on application of said City Treasurer advance and pay over such sums as shall be estimated to be the

amount collected on account of such city taxes and assessments and such advances shall be accounted for and adjusted at the next regular settlement with the city. The City Treasurer shall also forthwith after such settlements, adjust and apportion the funds so advanced among the several city funds.

#### STATEMENTS OF TAXES COLLECTED, ABATED AND DELINQUENT.

Section 122. It shall be the duty of the respective County Auditors of the several counties in which portions of said city shall be, to make out and transmit to the City Clerk of said city on or before the first day of December of each year, a statement showing the exact amount of taxes levied on account of the several funds of said city according to the tax lists made out by said auditors; and at the same time to make out and transmit to said clerk a statement of all abatements, corrections or additions to said tax lists, and of all amounts of all taxes cancelled as uncollectable within the year next preceding, and the several accounts of such changes affecting each of said several funds; and also a further statement of the amount of taxes delinquent and outstanding applicable to said several funds. Each of said auditors shall also at the time of making settlement with the County Treasurer required by law, furnish said clerk with a certified statement of the several amounts collected by said County Treasurer on account of each of said several funds as shown by said settlement.

#### SEPARATE ACCOUNT TO BE KEPT FOR EACH FUND.

Section 123. The City Clerk and Treasurer shall each, as soon as the tax estimate is made in each year, open and keep in his book separate and distinct accounts for each of the several divisions of taxes shown in the tax estimate of the then current year; and in making any tax estimate for expenditures and in making any levy, the Commission shall itemize the same, so as to show separately the amount to be collected from taxes for each fund, as said funds are designated in section.

It shall be the duty of the treasurer to keep a complete, accurate and separate account of each and all of the separate funds embraced in sub-divisions one to seventeen, inclusive of section 113, which shall accurately show at all times the amount of money received by him for the credit of each of such funds, and whence received, and the amount of money paid out by him on account thereof, and to whom, and for what purpose paid out.

The treasurer shall also keep a separate and distinct account of moneys received or to be received for each local improvement, for which an assessment is made, and when any moneys is collected by him from the County Treasurer, or any other source, on account of any such assessment it shall be his duty to credit the sum to its separate assessment account. Whenever the County Treasurer shall pay over to the City Treasurer any taxes belonging to the City and collected under any levy, and whenever any money is received by the City Treasurer for the sale of certificates of indebtedness disposed of in anticipation of the collection of a tax based on a tax estimate, the City Treasurer shall credit each of the respective funds and accounts with its proportionate amount of receipts ac-



ording to the tax estimate of the fiscal year for which such estimate is made. The money collected on account of assessments shall not be paid out by the Treasurer except in payment for assessment work. The money received from the sale of certificates of indebtedness based on a tax estimate and the money received from the County Treasurer on a tax levy based on such estimate, shall be used and applied only to defray the expenditures together with the arrearages due and unpaid for the specific object for which said estimate was made and said taxes were levied.

After the accounts are opened in the books as hereinbefore provided, any moneys, thereafter received by the city from the collection of delinquent taxes, shall be forthwith distributed to the funds provided for herein, so far as such funds correspond to the funds named in the particular tax levy on which said delinquent taxes are collected. And so far as they do not correspond, the delinquent taxes collected shall be credited to the general fund. The surplus of any year's receipts over expenditures in any particular fund may be carried forward to the same fund for the succeeding year.

#### TAX CERTIFICATES.

Section 124. At any time after the annual tax levy has been certified to the County Auditor, and not earlier than October tenth, in any year, the Commission may by resolution issue and sell as many certificates of indebtedness as needed in anticipation of the collection of the taxes so levied, as aforesaid, for any special fund named in said tax estimates for the purpose of raising money for such special fund, but no certificate shall be issued for any of said separate funds, exceeding fifty per cent of the amount named in said tax estimate to be collected for the use and benefit of said fund and no certificate shall be issued to become due and payable later than December thirty-first of the year succeeding the year in which said tax estimate, certified to the auditor as aforesaid was made, and said certificate shall not be sold for less than par and accrued interest, and shall not bear a greater rate of interest than six per cent per annum; each certificate shall state upon its face for which fund the proceeds of said certificate shall be used, and the whole amount embraced in said tax estimate for that particular purpose. They shall be numbered consecutively and be in denominations of fifty dollars or a multiple thereof, and may have interest coupons attached, and shall be otherwise of such form and terms, and be made payable at such place, as will best aid in their negotiation, and the proceeds of the tax assessed and collected as aforesaid on account of said fund, and the faith and credit of the City are irrevocably pledged for the redemption of the certificate so issued.

#### MONEY. HOW PAID OUT OF TREASURY.

Section 125. No money shall be paid out of the city treasury except for principal or interest of bonds or for the payment of judgments duly obtained against the City unless such payment shall be authorized by a vote of the Commission specifying the fund to which the same is chargeable, and with the exception of the interest fund, sinking fund and judgments, shall be drawn out only upon orders signed by the Mayor and Clerk, and also countersigned by the Comptroller, whenever the City shall have such an officer.



Each order shall specify the purpose for which it is drawn, the fund out of which it is payable, and the name of the person in whose favor it may be drawn, and shall be made payable to the order of such person.

Provided that the Commission may provide by resolution for the payment of any or all employees of said city which are paid by order of the Commission on pay rolls to be prepared as directed by said resolution, by heads of departments, officers of the City or otherwise, certified to as correct by the person so preparing the same, duly audited, ordered paid by said Commission, after being so audited and paid by the City Treasurer, and receipted by the several employees on said pay rolls, which pay rolls shall be deposited by said Treasurer with the City Clerk, on receiving orders drawn as other orders are drawn, for the sums total, receipted for on such pay rolls. Such orders shall refer to the date, number, sum total, and department paid for of such payroll. Said Commission may make such rules and regulations as to pay rolls as it may deem proper.

And further provided, that said Commission may also provide such a pay roll for the poor list of the City, and place thereon and strike therefrom from time to time the names of such persons as it may deem proper.

#### OBLIATIONS CANCELLED WHEN PAID.

Section 126. When any order on the Treasurer shall have been paid or received by him, it shall not again be issued; but shall be immediately cancelled by him, and filed away in his office. The Commission may provide, for the examination from time to time of such cancelled orders and also of cancelled bonds or other obligations in the hands of the Treasurer, for their return to the office of the City Clerk, and for their destruction, preserving such records or vouchers thereof as said Commission may deem proper.

#### JUDGMENTS. HOW PAID.

Section 127. No limitation or restriction contained in this charter shall be construed to prohibit the levying of taxes to pay any judgment that may at any time be recovered against said City; but in case of such judgment the Commission shall at the time of making the next annual tax levy after the rendition of such judgment, levy and assess a special tax upon all taxable property in the City, sufficient to pay such judgment. If for any reason such levy shall prove insufficient, new taxes shall be levied until the whole of such judgment is paid. Any excess of the amount so assessed and collected, after the payment of such judgment, shall be credited to the revenue fund of the City. And such judgment shall be paid by the City Treasurer upon presentation to him of a certified copy of the docket entry thereof, if he has in his hands sufficient funds not otherwise appropriated. And in case there are no sufficient funds to fully pay the same he shall pay thereon such amount as may be in his hands and not otherwise appropriated.

#### FINANCIAL REPORT. REDUCTION OF EXPENDITURES.

Section 128. The Superintendent of the Department of Finances and Accounts shall at the close of the first half of the fiscal year,

make report to the Commission of the actual expenses of the city for the first half of the fiscal year, the amount of taxes collected and outstanding, and the revenues received from other sources; and if upon making of such report, it shall appear that the current expense of such half year have exceeded the estimates upon which the tax levy thereof was based, or that the revenues of said City, are likely to fall short of their estimated amount at the time of making such tax levy, the Commission shall forthwith proceed to reduce the current expenses of the City in such manner as may be deemed advisable, and for that purpose may diminish the amount of service for lighting streets, and the amount of work to be done under any contract, and reduce the force or number of men employed in the several departments of the City. In all future contracts with said City, such right to reduce the amount of service or work to be performed and the amount of material to be furnished on account of deficiency of revenue, is hereby reserved and shall be so stated in such contract.

#### UNIFORM ACCOUNTS AND REPORT.

Section 129. The Commission shall prescribe uniform forms of accounts, which shall be observed by all officers and departments of the City, which receive or disburse moneys.

#### CITY DEPOSITORIES.

Section 130. All city funds, as soon as received, shall be deposited by the City Treasurer in the name of the City in one or more banks designated by the Commission, who, before designating such depository or depositories shall advertise in the official paper, for at least ten days for proposals. Such proposals shall state what security will be given to said City for the funds so deposited, and what interest allowed on daily balances to be credited at the first of each month, on conditions that such funds, with accrued interest, shall be held subject to draft and payment at all times on demand. Any such proposal shall also state what interest will be allowed on moneys deposited for any certain or definite period of time, naming such period, on the condition that such funds with accrued interest shall be held subject to draft and payment at the expiration of said period of deposit. If, after making such designation, the Commission deems the surety given insufficient, it may require a new bond, or if, in its opinion, the public interests require, may vacate, revoke or modify any such designation, and again advertise and designate a depository. The amount deposited in any bank shall not exceed twenty-five per cent of the capital stock and permanent surplus thereof.

#### EXEMPTION OF EAST ST. CLOUD FROM INDEBTEDNESS.

Section 131. The territory of said City lying on the easterly side of the Mississippi river and the real and personal property therein shall be assessed and taxed pro rata with the other property of said City for the payment of the one hundred thousand dollars (\$100,000) bonds and interest thereon of said city, issued by said city under and pursuant to chapter one hundred and thirty-eight (138) of the special laws of 1879, and chapter twelve (12) of

the special laws of 1883 and legalized by chapter two hundred and twenty-two (222) of the special laws of the state, approved January 28, 1885.

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## CHAPTER XI.

### BONDS.

#### PURPOSES FOR WHICH BONDS MAY BE ISSUED.

Section 132. The bonds of the City of St. Cloud may be issued for any of the following purposes by proceeding as in this chapter provided, to-wit:

For the purpose of construction of public water works and the enlargement, extension, protection or distribution of water supply of said City; for defraying the expenses of grading, paving or otherwise improving the streets, alleys, parks, driveways and public grounds of said City, and for the installation of garbage crematories, hospitals, museums and art galleries; for the establishment or purchase of public lighting, heating or power plants and for the acquisition and equipment by purchase or otherwise of street railways, telegraph or telephone lines or any other public convenience from which a revenue shall or may be derived; for constructing and completing all necessary bridges, piers and approaches thereto and all necessary culverts in said City and within two miles of its corporate limits; for the purchase or acquiring sites for all necessary public buildings and structures and the construction and erection thereon of all necessary buildings and structures and the purchase of all necessary fire department equipment; bonds and tax certificates may also be issued in anticipation of the revenue and taxes of said city and to pay, take up and refund all outstanding bonds and judgments of said City from time to time after the same become due and payable.

#### LIMITATION.

Section 133. The total bonds issue of the City of St. Cloud shall not exceed nor shall said City at any time become indebted in a sum in excess of ten per cent of the assessed valuation of said City; provided that the following obligations and indebtedness of said City shall not be considered or construed as a part of the indebtedness of said City in determining whether the limitation herein provided for shall have been reached or exceeded, to-wit:

The current obligations of said City payable in the usual course of business and out of its current revenues; certificates of indebtedness and bonds issued for the creation or maintenance of a permanent improvement revolving fund; obligations incurred in acquiring lands for streets, parks or other public improvements and payable from the proceeds of assessments levied upon property specially benefited by such improvements; bonds issued for the purchase or construction of public water works or for the enlargement, protection or distribution of the water supply of said City or for the establishment or purchase of public lighting, heating or power plants and for the acquisition and equipment by purchase or other-

wise of street railways, telegraph or telephone lines, or any other public convenience or utility from which a revenue shall or may be derived.

#### FORM AND EXECUTION.

Section 134. All bonds of said City of St. Cloud hereafter sold or issued to refund bonds now outstanding shall be signed by the Mayor and attested by the City Clerk and countersigned by the City Treasurer and have the official seal of said City thereon imprinted and the interest coupons thereto shall bear the lithographed fac simile signature of the Mayor and City Clerk. Such bonds shall express the denomination and terms of payment and shall have coupons attached for the several interest payments to be made thereon which interest shall in no case exceed the rate of five per cent payable semi-annually except bonds issued in anticipation of revenues and taxes. Said bonds shall in no case run for a longer term than thirty years from the date of their issue but provision may be made for their payment at any time upon call after a given number of years from the date of their issuance. It shall not be necessary that said bonds become due all at one time, but provision may be made for the payment of portions of the issue thereof at different times and from year to year after a specified number of years. No bonds of said City, no matter for what purpose issued, shall be sold for less than their face value with accrued interest.

#### REGISTRATION. APPROVAL OF ELECTORS.

Section 135. If the purchaser or holder of the bonds issued by said City shall so request, the Commission by a resolution prescribing the method and terms of exchange thereof may authorize the proper city officials to issue registered bonds in lieu thereof in such denominations as may be desired or said Commission may provide for the registry of bonds upon such terms as it may see fit but thereby the indebtedness of said City by reason of such registration shall not in any manner be increased. No bonds of said City shall be issued for any purpose whatever save and except to pay, take up and refund outstanding bonds of said City or judgments lawfully rendered against the same as to which the time of appeal has expired, and save and except bonds issued in anticipation of revenues and taxes, without the approval first obtained of five-eighths of the electors of said City voting at a special election called for that purpose or at a general municipal election in the notice of which special or general municipal election the proposed issue shall have been plainly submitted for approval or rejection. Said election so held upon the question of the issuance of said bonds shall be held in all respects as other municipal elections so held and be governed by all the laws and rules in force in relation to such municipal elections.

#### REFUNDING BONDS, ETC. SALE.

Section 136. Whenever it shall be necessary to issue the bonds of said City to take up, pay or refund outstanding bonds thereof or any judgment against said City, the Commission may adopt a resolution providing for the issuance and sale of said bonds and said resolution shall state the amount of the proposed issue, the purposes for which the said bonds are to be issued, the date of such



proposed issue and when due and payable, the rate of interest, the place where the principal and interest shall be paid and the denomination of each bond, and upon the approval of said resolution by the Mayor of said City and its publication in the official paper thereof at least twice, the bonds of said City shall be sold to the highest bidder for cash, but for not less than par and accrued interest.

At least thirty days shall elapse between the date of the last publication of said resolution and the sale of said bonds and an advertisement thereof signed by the City Clerk and calling for sealed bids thereon shall be published at least twice in the official paper of said City and in at least two issues of a financial journal published in the City of Chicago, or the City of New York, the last publication to be at least ten days before the date for opening said bids. Said advertisement of the sale of said bonds shall contain a brief description of said bonds and the time and place of the meeting of the Commission for the opening of said bids and at the time and place so fixed, but not prior thereto or at any other time or place, the bids shall be opened and the offer complying with the terms of such sale and most favorable shall be accepted; provided that the Commission shall have the right to require bidders to file with their bids certified bank checks payable to the City Treasurer of said City in an amount not exceeding five per cent. of the par value of said proposed bond issue, the same to be forfeited to said City in case the bid of such person for said bonds shall be accepted and there shall be no legal ground for refusing to take and pay for the same and said bidder shall refuse to take and pay for the said bonds; and, provided further, that the Commission may reject any and all bids and may award said bonds to a lower bidder if any shall present himself after the opening thereof or upon like notice it may invite other bids, but no bids shall be received at any time or considered unless accompanied by the required certified checks.

#### BONDS OTHER THAN REFUNDING. ELECTION.

Section 137. Bonds may be issued by said City for any other purpose than to take up, pay or refund the outstanding bonds of said City or any judgment against the same and in anticipation of the revenues and taxes thereof by proceeding in the following manner:

If in the judgment of the Commission it shall be deemed expedient to sell the bonds of said City for any other purpose than to take up, pay or refund outstanding bonds or any judgment of said City, or in anticipation of the city's revenues and taxes, the Commission of said City shall pass and adopt a resolution stating and specifying that it considers and deems it expedient and proper to issue the bonds of said City for the purpose or purposes named in said resolution and specifying the amount of such contemplated issue, the denomination of each bond, the rate of interest, the time and place for the payment of principal and interest and such other matters as said Commission may consider germane and proper and shall therein call an election of the voters of said City to vote upon the proposition for the issuance of such bonds and said Commission shall in said resolution specify the date upon which said election shall be held which may be on any general election day or a special



election may be called, and provide therein for the form of notice of such election and the precise question to be submitted to said voters and thereupon such election shall be held in all respects as is hereinbefore provided and if five-eighths of the total number of the votes cast at said election shall be in favor of the issuance of said bonds, the proposition to issue the same shall be deemed and considered carried and if the number of votes in favor thereof shall be less than five-eighths of the total number cast at said election, the proposition shall be considered as rejected and no similar proposition for the issuance of bonds shall be submitted to the voters of said City for the period of one year from the date of said election. The same proceedings shall be had relative to the appointment of judges of election, the canvass of votes and the returns and the declaration of the result as is provided by law for the general elections of said City and said bonds if voted shall be sold by said City in the manner provided in Section 136 in this chapter.

#### PROCEEDS. HOW HANDLED.

Section 138. Upon payment to the Treasurer of said City of the amount offered therefor by the successful bidder, the bonds shall be delivered, and the Treasurer shall hold the proceeds thereof as a separate fund for the purposes named in the resolution under which said bonds were issued. If the contemplated improvement be afterward abandoned such fund shall become a part of the sinking fund of said city and shall be invested and used in all respects as is provided in this charter for the sinking fund herein provided for.

#### SINKING FUND BOARD. INVESTMENTS.

Section 139. The Commission shall act as the Sinking Fund Board of the City of St. Cloud and may by resolution define such duties of said board as are not specified in this charter. Such board shall have the charge and management of the sinking fund and of the interest fund of said City; and from time to time shall invest the moneys of the sinking fund in the bonds of said City, or of the United States, or of the State of Minnesota, or in such bonds of any county, city, village or school district in the State of Minnesota as may be approved. In case of investment in the bonds of the City of St. Cloud, the same shall not be cancelled before maturity, but shall be held by said board and the interest thereon paid over and applied to the increase of such sinking fund. Whenever deemed desirable said board may sell or dispose of any bonds purchased for the sinking fund and re-invest the same or the proceeds thereof in other bonds.

#### SINKING AND INTEREST FUNDS. DEPOSITS.

Section 140. Whenever deemed desirable said board may deposit any portion of the interest fund or sinking fund in any national or state bank, or in any savings bank. Before making any such deposit they shall advertise in such manner as they may deem best, for proposals therefor, which proposals shall state what interest will be paid on the amount so deposited, and what security will be given therefor. The Commission shall designate the bank or banks in which such deposits shall be made, but no deposit shall be made in any bank until the Commission shall approve the designation of

the same, and the same shall have executed to the City of St. Cloud, and deposited with the City Treasurer a bond with such sureties, containing such terms and conditions, and in such amount, not less than double the sum that may be so deposited, unless it be a Surety Company Bond, as the Commission shall approve. The Commission may at any time require other and additional bonds and all funds shall be withdrawn from any depository, failing forthwith to furnish the same. The funds so deposited shall be held subject to draft and payment from and after a time to be designated by the board at the time of making any such deposit. Should any of the funds so deposited be lost to the City, without any fault of the City Treasurer, said Treasurer shall not be liable for such loss.

#### PAYMENTS ON WARRANTS OF BOARD.

Section 141. The moneys of the interest fund and of the sinking fund, whether in the custody of the City Treasurer or of any depository, shall be paid out on warrants signed by the Mayor and at least one member of said Board, and countersigned by the City Clerk, and shall be paid out in no other manner.

#### VACANCIES, HOW FILLED. MEETINGS. RECORD.

Section 142. It shall be the duty of the City Clerk to attend the meetings of said Board and to keep a correct journal of all their proceedings, which journal shall be certified to by at least two of said Board, and attested by said Clerk. All investments or other acts of said Board shall be based upon resolution duly entered upon said journal.

#### SECURITIES DEPOSITED WITH TREASURER. CANCELLATION OF BONDS.

Section 143. All bonds and securities purchased by said Board shall be held in safe keeping by said City Treasurer. Whenever city bonds are paid by the warrants of said Board a record thereof shall be made in the books of said Board, and the said bonds shall be carefully cancelled by writing the word "redeemed" together with the date thereof across the face of the same.

#### PAYMENT OF INTEREST AND BONDED INDEBTEDNESS.

Section 144. It shall be the duty of said Board to protect the credit of the City. To draw from the interest fund and the sinking fund from time to time such sums as may be necessary to pay the interest and bonded indebtedness of the City as it matures, and to transmit the same to the several places where such interest and indebtedness may be payable.

#### SINKING FUND SUFFICIENT, TAX OMITTED. FUNDING BONDS.

Section 145. Whenever said amount of such sinking fund with the interest thereon computed to the time of maturity of the bonds or debt of the City shall be sufficient to pay said bond or debt at the maturity thereof, the levy of the tax for such fund may be omitted; but in case, by decrease of interest or depreciation of investment or other cause, said fund shall not be sufficient at any time thereafter, the levy of said tax shall be resumed. Whenever said sinking fund shall be insufficient to pay all the bonds of the City that may at any time become due, the Commission may issue

the bonds of the City for such time as they may deem proper, not exceeding thirty years, and on such terms as to place of payment and rate of interest as may be deemed advisable, and in such amount as shall be necessary to meet such deficiency.

#### ENFORCEMENT OF PROVISIONS AS TO SINKING FUND.

Section 146. In case the Commission acting as the Sinking Fund Board or other city officers shall violate or neglect to conform to any of the provisions of this charter, relating to said sinking fund, any taxpayer of the City or any owner of any bonds of the City shall have the right to maintain in any court of competent jurisdiction any appropriate action to enforce compliance therewith. The provisions of this charter that relate to the collection and maintenance of said sinking fund is hereby declared to be part of the contract with the holder of any bonds of the City that may be hereafter issued, and shall be kept inviolate.

#### PENALTY.

Section 147. Any violation of any city official of any of the provisions of this charter relating to the sinking fund or interest fund herein provided for, is hereby declared to be a misdemeanor and shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars; or by imprisonment in the county jail for a term not to exceed ninety days.

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### CHAPTER XII.

## LOCAL IMPROVEMENTS AND SPECIAL ASSESSMENTS

#### PURPOSES FOR WHICH PROPERTY MAY BE CONDEMNED.

Section 148. The City of St. Cloud is hereby authorized and empowered to condemn property, or any right, interest or easement therein, for any and all of the following purposes, to-wit: for water works, gas works, heating works and electric lighting works; for markets, parks, public grounds, public squares and sites for public buildings, and for buildings for the Fire Department; for the construction of slopes and embankments and cuts; for sewers, drains, ditches, reservoirs and cisterns; for the laying out, opening, altering, widening and extending, straightening, parking and otherwise improving of streets, avenues, parkways, lanes and alleys; for erecting poles and suspending wires thereon; for constructing and laying conduits, mains and pipes, and branches and connections pertaining thereto, whether for gas, water, sewerage or wires, and for lowering, raising, changing the course of, or diverting any stream of water, ditch, sewer or drain, and also for any and all other public purposes.

#### WHAT IMPROVEMENTS MAY BE MADE.

Section 149. The City of St. Cloud is hereby authorized and empowered to make any and all improvements hereinafter named, and may make any and as many of the same, and such portions of any and as many of the same, at one time and under one order, job, contract or assessment as may be deemed proper, and may include therewith any condemnation proceeding affecting the same or any

part thereof. Said improvements are the following, to-wit: The grading, re-grading, filling, leveling, paving, re-paving, curbing, re-curbing, walling, bridging, graveling, macadamizing, planking, re-planking, opening, extending, widening, contracting, altering, railing, surfacing, ornamenting, maintaining, and keeping in repair streets, avenues, lanes, alleys and parkways, and changing the grade of any of the same, also filling, grading, protecting, improving and ornamenting any market, public park square or grounds, now or hereafter laid out; also the planting or protecting of shade trees and ornamental trees; also the constructing, building, rebuilding, extending, laying, relaying, maintaining and repairing of cross and side walks, area walls, bridges, culverts, gutters, sewers, ditches and private drains, gas works, water works and electric works, gas mains and pipes, water mains and pipes, sewer mains and pipes, and conduits and mains for enclosing wires; also the construction of reservoirs and cisterns; also the sprinkling of streets, alleys and highways; also the abatement of any and all public nuisances within the limits of the city; also the lowering, raising, changing the course of, or diverting the course of any stream of water, ditch or drain, and also providing for the transmission of heat, power and electricity.

#### ASSESSMENTS FOR WATER PURPOSES. TAXING DISTRICTS.

Section 150. The City of St. Cloud is hereby authorized to levy assessments for local improvements upon the property fronting upon such improvements or upon the property to be benefited by such improvements, or both, without regard to a cash valuation. Said City is also authorized to levy assessments for such improvements upon the property benefited thereby according to the cash valuation of the property so benefited. Said City may also determine that the expense or system of improvements, or any portion or portions thereof, be defrayed by assessments upon such taxing district or districts as may be determined to be liable therefor. The assessments in this section authorized may be made to defray the cost and expense, or any portion thereof, of any and all improvements authorized by the charter, and to defray the expense and damages, or any portion thereof, for taking property, for any and all purposes authorized by the charter. This section shall apply to any and all improvements heretofore ordered or made, as well as to those that shall hereafter be ordered. The method or methods of making any such assessments, and the establishments and the extent of such taxing districts, may be determined by the Commission; and said Commission may alter, enlarge, make smaller, or abolish any taxing district.

#### METHODS OF MAKING ASSESSMENTS.

Section 151. Such assessments may be made according to any of the following methods:

1st. By levying an equal sum per front foot upon the several parcels and lots of land fronting upon the improvement for which such assessment is made.

2nd. By levying an equal sum per square foot upon the several parcels and lots of land fronting upon the improvement for which such assessment is made; provided that in computing areas for any



such assessments, the Commission, in its discretion may exclude so much of any tract of land as lies more than 132 feet from such improvement; and, provided, that said parcels and lots of land may, in the discretion of said Commission, be considered as extending to the centers of adjoining streets and alleys.

3rd. By levying the same upon the several parcels and lots of land benefited by the improvement for which the same is made, according to the amounts in which said several parcels are benefited thereby.

4th. By levying the same upon the several parcels and lots of land benefited by the improvement, for which the same is made according to the cash valuation thereof.

#### COMMISSION TO MAKE ASSESSMENTS. MAY COMBINE METHODS.

Section 152. All such assessments shall be made by the Commission unless otherwise provided; and in making any such assessments, said Commission may follow as many of said methods as it deems proper, and may make such several portions of the same as it deems proper according to each of the several methods so followed by said Commission. Said Commission may also, in its discretion levy any such portion of any assessment as it deems proper upon such taxing district or districts as it may determine to be liable for the same, without regard to the above provisions and may levy the remainder thereof as above provided; and may at any time alter, enlarge, make smaller or abolish any such taxing district.

#### PROPERTY MAY BE PURCHASED OR CONDEMNED.

Section 153. Whenever the Commission shall deem it necessary to take or appropriate any property or any right, interest or easement therein for any of the purposes mentioned in this chapter, said Commission may purchase the same, if it can be done upon terms satisfactory to said Commission, or it may cause the same to be condemned as in this chapter provided.

#### PROCEDURE FOR MAKING IMPROVEMENT.

Section 154. Whenever any improvement, except the building, re-building or repairing of sidewalks, is to be made, for which any property is to be condemned, or on account of which any assessment is to be made, or any damages are to be appraised, the Commission shall cause a brief and general description of the same, and, if they deem proper, specifications therefor, and plats and plans thereof, showing what improvements are to be made, and the extent of each of the same, and what property, if any, is to be condemned, to be made and filed in the office of the City Clerk; and shall cause an estimate of the cost and expense thereof to be made and filed therewith; and at its discretion may require the City Engineer to state whether in the opinion of said City Engineer, property to be assessed for said improvement can be found benefited to the extent of the damages, costs and expenses necessary to be incurred therefor. Said Commission shall cause improvements to be designated by a suitable number, and thereafter the same may be designated as "Improvement No. ...." Said Commission may determine that the whole or any portion of the damages, costs and expenses of



such improvement be defrayed by special assessments, and in case only a portion thereof are to be defrayed by such assessments, shall cause a statement showing the portion so to be collected, to be attached to or filed with the aforesaid description. The territorial extent of such improvement, and of the several parts thereof, and what improvements, and the condemning of what property, shall be included in and as a part of such improvement, and the extent of each of the same is left wholly to the discretion of the Commission and the aforesaid description with the accompanying plans and specifications, if any, shall be held to correctly show the same. If said Commission shall determine to make such improvements, it shall direct that the proper assessments and appraisements therefor be made by an order which may be substantially in the following form, or in any other form that the Commission may adopt:

"The Commission of the City of St. Cloud hereby directs that the proper appraisements and assessments for Improvement No. .... be made."

#### NOTICE. HEARING BEFORE BOARD.

Section 155. After the making of such order by the Commission, the City Clerk shall cause notice to be published twice in the official paper of the City, which notice may be substantially in the following form, or any other form which the said Commission may prescribe:

"The Commission of the City of St. Cloud gives notice that it will meet at its chambers in said City on the ..... day of ..... 19.., at .... o'clock .. M., to appraise the damages and make the assessments for Improvement No. ...., which improvement consists of (here insert a brief description of such improvement.) A full description of said improvement is filed in the office of the City Clerk.

"Dated at St. Cloud, Minn., .....19..

.....  
City Clerk."

The date of the first publication of said notice shall be at least fifteen days prior to the time of such meeting. Said Commission shall meet at the time and place specified in said notice, and may adjourn from time to time. Said Commission by itself or by the City Engineer, as it may direct, shall view the premises and hear any legal evidence that may be offered for the purpose of proving the true amount of damages that will be sustained or benefits that will be conferred by reason of said improvements and any member of said Commission or said City Engineer is hereby authorized to administer oaths to any witness produced before them. All parties interested in said improvement shall have the right to appear before said Commission, or said Engineer at said hearing either in person or by counsel. And said Commission or City Engineer may have the aid and advice of any other official of said City in the performance of their or his duties. If the proposed improvement consists in whole or in part in the taking of private property for any municipal purpose, in addition to the published notice hereinbefore provided for, said Commission shall cause a copy of such notice to be

served in the manner in which a summons is served in a civil action in district court upon all parties interested in the land to be condemned or benefited as appears by the last assessment list in the office of the Auditor of the County in which the land is situate, who can be found in said County, and also upon all persons occupying said lands, or any part thereof, and it shall mail a copy of such notice to all non-residents of the said County, appearing to be interested in said land, addressed to the last known post office address of such non-residents and if such address is unknown to the Commission, such notice shall be addressed to such person at St. Cloud. Proof of the service and mailing of such notice shall be made by the affidavit of the person serving or mailing the same, which shall state the time, place and manner of serving or mailing the same, and how each notice so mailed was addressed, and such affidavit shall be filed and preserved in the office of the City Clerk.

#### AMOUNT OF ASSESSMENT. MANNER OF ASCERTAINING.

Section 156. Said Commission, or said City Engineer shall proceed to assess the damages for the appropriation of any property or of any right, interest, or easement therein required for said improvement to the several tracts and parcels of property damaged or appropriated and where in the opinion of said Commission or said City Engineer several lots or parcels of property constitute in fact but one tract the same may be considered and dealt with as one tract and said Commission, or City Engineer shall also assess such damages together with the other costs and expenses of such improvement and the cost of the proceedings, on such portion thereof as may have been designated by the Commission upon the property by them deemed benefited in accordance with the methods hereinbefore authorized. But no assessment shall exceed the actual benefit to the tract or parcel of property upon which the same shall be assessed; and if in the judgment of said Commission or City Engineer the amount of benefits assessed shall be the full amount of benefits conferred by said improvement, said Commission or Engineer shall so state in their assessment.

#### REPORT AND ADOPTION OF ASSESSMENT.

Section 157. If the appraisement and assessments for said proposed improvement shall have been made by said City Engineer, the same shall be reported to the Commission for consideration and adopted before the preparation and completion of the assessment roll provided for in the following section.

#### ASSESSMENT ROLL. FORM. MANNER OF MAKING.

Section 158. As soon as and whenever said Commission shall have the approved, ratified and adopted assessment and appraisements for any improvement whether made by the Commission, or the City Engineer, said Commission shall prepare an assessment roll which may be in substantially the following form, or in any other form that the Commission may adopt:



whereon the same is situated, said Commission shall assess said damages to said building separately; otherwise the damages to any such building shall be assessed as a part of the real estate whereon the same is located. The value of such building, or of the part thereof necessary to be taken, or for the owner to remove shall also be determined by said Commission and placed in a proper column therefor in the assessment roll. The owner of such building may at any time within ten days after the date of publication of the notice provided for in the next section, file a notice in the office of the City Clerk that he elects to take such building or part of building at such appraisal; and in such case the amount of such appraisal shall be deducted from the amount of damages assessed to such building or the property of which such building is parcel; and the owner shall have such time for the removal of such building after the confirmation of the assessment as the Commission may allow. If the owner shall refuse to take the building at the appraisal, or fails to give notice of his election as aforesaid, within the time prescribed, then no deduction shall be made from the estimated damages as aforesaid; and the said Commission shall after the confirmation of the assessment, and after the money is provided and set apart for the owner thereof for his damages, be authorized to sell such building or part of building, in such manner as it deems proper, or to use the same or the material therein for such purposes as it deems proper. All funds received from such sales shall be paid into the Permanent Improvement Fund.

#### ASSESSMENT. PROCEDURE FOR CONFIRMATION. NOTICE.

Section 161. When completed said Commission shall file said assessment roll in the office of the City Clerk and said Clerk shall publish a notice thereof once in the official paper of the City which notice may be substantially in the following form:

"Notice is hereby given that the Commission of the City of St. Cloud has filed in the office of the City Clerk the assessment roll for Improvement No. . . . ., which consists of (here insert a brief description of said improvement as in the notice provided for in Section 155) and that all objections thereto must be filed in said office within ten days from the date of the publication of this notice.

"Dated, . . . . .

(Signed) . . . . .

City Clerk."

The owner of any property or of any interest in property affected by said improvement who deems himself aggrieved by such assessment may file his objection thereto in writing in the office of the City Clerk within ten days from the date of the publication of said notice. At any time or times after the expiration of such ten days the Commission may consider said assessment and the objections filed thereto. Any person filing objections may appear before said Commission either in person or by counsel. The Commission may after full consideration confirm said assessment or any part or portion thereof or annul the same or any portion or any portions thereof or re-consider, revise, modify, change or make over the same in any respect that it may see fit. The determination of



the Commission shall be by an order entered in its minutes substantially in the following form, or in any other form the Commission may prescribe:

"The Commission hereby annuls these portions of the assessments for Improvement No. . . . ., to-wit: (Briefly indicate portions annulled. If none, insert the word "none"); and hereby confirm all portions of the same not annulled."

If corrections shall be made in said assessment roll upon said hearing or any hearing had by said Commission thereon, said corrections may be made upon the face of said original assessment roll or noted thereon or a new assessment roll may be prepared in place and lieu of the one first filed, but in either event the same shall be as valid and effective as if no change had been made in said original assessment roll and the same had been confirmed without objection.

After said assessments shall have been confirmed and all portions thereof that have not been confirmed shall have been annulled, the City Clerk shall cause a brief notice to be published once in the official paper of the City which shall be substantially in the following form:

"Notice is hereby given that the Commission of the City of St. Cloud have confirmed assessment for Improvement No. . . . .

Dated . . . . ., 19..

.....  
City Clerk."

#### ASSESSMENTS, LEVY, INSTALLMENTS. ASSESSMENT ROLL.

Section 162. Whenever the Commission shall confirm any such award or assessment such confirmation shall make such award and assessment final and conclusive upon all parties interested, except as hereinafter provided, and the Commission shall proceed at the same or any subsequent meeting to levy such assessment upon the several parcels of land described in said assessment roll and shall make up an assessment list in accordance with the assessment so confirmed. Such assessment shall all be levied at one time, but the Commission may determine at the time of making the same either that the entire amount of such assessment shall be included with the next statement of taxes transmitted to the County Auditor or Auditors of the county or counties wherein such property is situated or that only on aliquot part thereof shall be included in said statement and a like aliquot part thereof be included in the statement of each succeeding year until the whole thereof shall have been so transmitted; provided, that said aliquot parts shall be in no case less than one-fifth the sum levied as aforesaid. In case the Commission shall determine to transmit the same in installments it shall indicate such determination by placing the several installments into which it shall divide the same in proper columns therefor in the assessment roll. Unless so indicated, the entire assessment remaining unpaid shall be included with the next statement of taxes to be transmitted as aforesaid. The Commission shall make such assessment by adopting an assessment list which



may be in substantially the following form, or in any other form that the Commission may adopt:

"The Commission of the City of St. Cloud doth hereby levy and assess upon and against the several lots and parcels of property below described the respective sums of money set against each lot or parcel for Improvement No. ...."

OWNER	DESCRIPTION OF PROPERTY	Lot	Blk.	Total Tax	Paid	FIRST INSTALLMENT				
						Amount	Paid City Treas.		Delinquent .....191..	
							Amount	Receipt No.		

"Done at a meeting of the Commission this .... day of .....  
19..

.....  
Mayor.

Attest: .....  
City Clerk."

#### ASSESSMENTS PARAMOUNT LIEN.

Section 163. All assessments levied under the provisions of the charter shall be a lien on the real estate upon which the same may be imposed, from the date of the confirmation of such assessment, and of equal rank with the lien of the state for taxes which have been or may be levied upon said property under the general laws of the State; and the general rules of law as to priority of tax liens shall apply equally to the liens of such assessments and to such liens for general taxes, with the same force and effect as though all of the liens aforesaid and all of the taxes and assessments aforesaid, were of the same general character and imposed for the same purpose and by the same authority, without regard to priority in point of time of the attaching of either of said liens, and a sale or perfecting title under either shall not bar or extinguish the other.

#### CITY CLERK SHALL KEEP RECORD OF ALL ASSESSMENTS.

Section 164. The City Clerk shall keep in his office, in books provided for that purpose, a correct record of all assessments, confirmed by the Commission; the said books to be properly ruled and headed so as to contain at all times a substantial description and history of each assessment on each lot and parcel of ground, whether payable in installments, as hereinafter provided, and whether paid to the City or County Treasurer or whether remaining unpaid. The assessment list and the record thereof kept by the

City Clerk shall be competent and sufficient evidence that the assessment roll was duly adopted and the assessment list duly made and adopted, and that all other proceedings antecedent to the adoption of such assessment list were duly had, taken and performed, as required by this charter, and no omission, informality or irregularity in proceedings in or preliminary to the making of any special assessment shall affect the validity of the same; and no failure of the City Clerk to record the assessment list or to deliver the same or the statement of the contents thereof provided by this chapter to the County Auditor on or before the time prescribed for such delivery or to do any other act or thing of him required, shall in any way invalidate any assessment; and no variance from the directions herein contained, as to the form or manner of any proceedings, shall be held material, unless it can be shown that the party objecting was materially injured thereby.

#### WARRANT FOR ASSESSMENTS.

Section 165. When any special assessment shall be confirmed and established by the Commission as herein provided for, it shall be the duty of the City Clerk, to issue a warrant for the collection thereof, which shall be under the seal of the City and signed by the Mayor and City Clerk, and shall contain a printed or written copy of the assessment roll as confirmed, or so much thereof as describes the real estate and the amount of the assessment in each case.

#### WARRANT DELIVERED TO CITY TREASURER.

Section 166. All warrants issued for the collection of any special assessment by the City and herein authorized, shall be delivered by the City Clerk to the City Treasurer as soon as practicable after the said assessment has been confirmed and established. The City Clerk shall in each instance take a receipt for such warrants and place the same on file.

#### TREASURER TO ORDER NOTICE ON WARRANT.

Section 167. Upon the receipt of any warrant for collection of any special assessment, the City Treasurer shall forthwith give notice by one publication in the official newspaper that such warrant is in his hands for collection, briefly describing its nature and the improvement for which assessment was made, and the territory embraced in such assessment, provided that when such assessment is for sprinkling, a reference in such notice to the number of the sprinkling district for the sprinkling of which such assessment has been made, shall be deemed a sufficient reference to the territory embraced in such assessment. Such notice shall require all persons interested to make payments within thirty days from the date of such notice.

#### RETURN OF CITY TREASURER TO CITY CLERK OF DELINQUENT ASSESSMENTS.

Section 168. If the assessment charged in any special assessment warrant made for any improvement, shall not be paid within thirty days after the publication of said notice by the City Treasurer, he shall return to the City Clerk, a list, duly certified, of the assessments which still remain unpaid, giving in such list the de-

scription of the several lots and parcels on which the assessments have not been paid, with the names of the respective owners thereof, if known, and the several amounts assessed thereto.

#### CITY CLERK TO TRANSMIT LIST TO COUNTY AUDITOR.

Section 169. The City Clerk shall on or before the first day of November following, cause a statement of the amount of said delinquent assessments except assessments that have been appealed to the District Court as hereinafter provided, with eight per cent annual interest thereon computed from the time said assessments became delinquent to the first day of October of the year next following the making of said assessment added thereto, with a description of the several lots and parcels of land on which the same are made, and the names of the respective owners thereof, if known, to the Auditor of the County in which such land is located, who shall enter the several amounts of said unpaid assessments and interest as aforesaid upon the tax duplicate of such County at the time said duplicates are made up, and collected in like manner as State and County taxes are collected.

Any owner or person interested in any land against which there is an assessment, may pay the whole amount thereof at any time before the roll is placed in the hands of the County Treasurer, to the City Treasurer and receive his receipt for the same, countersigned by the City Clerk which shall be sufficient authority upon presentation to the Auditor, for which to mark the assessment "Paid" upon his roll, or upon a certified statement filed with him by the City Clerk; but after the tax roll has been delivered to the County Treasurer for collection, the said assessment must be paid to him, subject to the penalties allowed by law.

The same penalties and interest shall attach and be collected by the County Treasurer on assessments as upon general taxes, which penalties and interest shall belong to the City and be turned over by said Treasurer to the City with the assessments.

#### ASSESSMENTS PAYABLE IN INSTALLMENTS.

Section 170. The Commission shall have power and authority to, and may by resolution in writing, adopted by an affirmative vote of a majority of its members, extend the time for the payment of any assessment made and confirmed by it for the purpose designated in this charter against any lot or parcel of land and may provide that such assessment be paid in annual installments of any number not exceeding ten. Said installments to bear interest at a rate not exceeding eight per cent per annum. When such assessment is fully completed and has been confirmed and established, the Commission shall by resolution, determine the number of annual installments, if any, in which assessments may be paid, which resolution shall be attached to and form a part of such assessment roll.

#### NOTICE OF ASSESSMENTS PAYABLE IN INSTALLMENTS.

Section 171. If the Commission shall adopt the resolution, specified in the foregoing section, the City Treasurer shall in his notice that the warrants are in his hands for collection, include a notice that the owner, or any person interested in any lot or parcel

so assessed and described in such assessment, may at his election and written request pay the sum assessed in installments, as designated in said resolution.

#### NOTICE OF ELECTION BY PROPERTY OWNER.

Section 172. Any person desiring to pay such assessment in installments, as a condition precedent to the exercising of such right, shall file, in duplicate, a written notice of his election to pay in annual installments, within thirty days after such publication, and before such assessment becomes delinquent, with the City Treasurer, and at the same time pay the first installment then due and payable; upon failure to file such notice and pay such first installment, the whole of such assessment shall be due and payable the same as though no extension of time for payment had been provided for.

Upon the filing of such notice by any person interested, the City Treasurer shall divide the said assessment into the proper installments, and make record of the same, and transmit one of such duplicate notices to the City Clerk, who shall note such fact in his record book of assessments.

The Commission may at any time after an assessment becomes delinquent and before the same is certified to the County Auditor, upon the written application of the owner, waive the neglect to so elect within the proper time, and permit any assessment which has become delinquent to be paid in installments as hereinbefore provided.

#### INSTALLMENTS TO DRAW INTEREST. WHEN DUE.

Section 173. Each of said installments shall bear interest, payable annually at a rate not exceeding eight per cent per annum, as hereinbefore provided, from the expiration of thirty days after the publication of the notice provided in section 167 of this chapter.

The time for the payment of installments, and for the enforcement of the same against the property affected by the assessments, shall be extended so that the several amounts shall become payable as follows:

The first installment as provided in Section 167, the second installment on October first of the succeeding year, the third installment on October first of the second succeeding year, etc.; each installment excepting the first shall be due and payable on the first of October of the year when payable.

#### INSTALLMENTS NOT PAID WHEN DUE.

Section 174. After the time for payment of any assessment has been so extended and divided into installments as aforesaid, if any installment so extended shall not be paid when it becomes due, together with the interest to that time on all future installments, the City Treasurer shall on the fifth day of October in each year certify to the City Clerk, such extended installment which became due on the first day of October in that year, and which has not been paid, together with all interest then due and unpaid on the whole assessment and interest on the whole assessment to the first day of the following October, as a special tax on said property, in the same manner as other delinquent assessments in his hands for



collection. The City Clerk shall thereupon certify the same to the Auditor of the County in which such land is located, in the same manner, at the same time, and with the same penalty added thereto, as in cases of other delinquent assessments, and in all respects as provided in and by section 167; the County Auditor upon receipt thereof, shall enter and carry out the same upon the proper tax duplicates of the County, in the same manner as in other cases of unpaid assessments certified to him under the provisions of this charter, and the same shall thereupon be collected and payment thereof enforced the same as other taxes on real estate are collected and enforced, and when collected paid over to the City Treasurer.

#### INSTALLMENTS MAY BE PAID BEFORE DUE.

Section 175. Any owner or person interested in any land against which an assessment has been levied, may, after such assessment has been divided into installments, pay all of the installments at any time before maturity, but in such event shall pay interest thereon to the first day of October immediately following such payment.

#### INSTALLMENTS PARAMOUNT LIEN.

Section 176. Every installment, the time of payment of which has been extended shall constitute and continue to be a paramount lien in favor of the City and against the lots or parcels of land as to which said extension is granted, for the amount so extended for each lot or parcel until the same is fully paid.

#### ELECTION. WAIVER OF DEFECTS.

Section 177. Any person making an election to pay in installments as provided in section 172, his heirs; personal representatives or assigns of any lot or parcel of land as to which an extension has been granted, shall be held to have recognized, and assented to, the validity and regularity of said assessments, and of all proceedings had thereon prior to the granting of said application, and shall thereby forever be estopped from denying the validity of said assessment or the amount thereof.

#### COMMISSION MAY ISSUE WARRANTS.

Section 178. The Commission is hereby authorized in anticipation of the levy, and collection of such assessment, whether divided into installments or not, to issue warrants on the permanent improvement revolving fund, payable at such times, and in such amounts as in the judgment of the Commission the said assessments will provide for, which warrants shall bear interest at a rate not exceeding eight per cent per annum, payable annually, on the first day of October, and may have coupons attached representing each year's interest. Such warrants shall be non-assessable and shall state upon their face for what purpose they are issued, and that they are payable out of the permanent improvement revolving fund, and shall be signed by the Mayor and countersigned by the City Clerk under the seal of the City, and be in denominations of not more than one thousand dollars each. Such warrants may be used in making payments on contracts for making the improve-



ments for which the assessments are made, or may be sold for cash, at not less than the par value thereof, and the proceeds thereof credited to the permanent improvement revolving fund, and used for paying for the said improvement. It shall be the duty of the City Treasurer to endorse on each warrant issued as aforesaid, on presentation to him, the post office address of the owner, and in case of assignment of any such warrant, the holder thereof shall present the same to the City Treasurer for endorsement of the post office address of such assignee. The City Treasurer shall keep a proper record of the post office addresses of the holders of all warrants issued as aforesaid. It shall be the duty of the City Treasurer to pay such warrants and interest coupons as they mature and are presented for payment, out of the fund on which they are drawn and to cancel the same when paid. Any indebtedness created by the issuance of any such warrants shall not be deemed a part of the total indebtedness of the City, which the City is hereinbefore forbidden to incur to exceed 10 per cent of the total value of the taxable property in such City according to the last preceding assessment for City purposes.

Every warrant issued as aforesaid shall contain the following proviso:

"The City of St. Cloud reserves the right to pay this warrant and accrued interest at any time upon giving the holder thereof thirty days notice."

Whenever there are funds in the permanent improvement revolving fund that may be properly applied to the payment of any such outstanding warrant, it shall be the duty of the City Treasurer to notify the holder of such warrant that there is money in the City Treasury for the payment of the same. Said notice may be given by mail addressed to the last known post office address of the owner of said warrant, and if such address is unknown, such notice shall be addressed to such person at St. Cloud, Minnesota. Proof of such mailing shall be made by the affidavit of the person mailing the same, and shall state the time and manner of mailing, and how each notice was addressed, and such affidavit shall be filed and preserved in the office of the City Treasurer. Said warrant shall draw no interest after thirty days from the mailing of said notice.

#### APPEALS AND APPELATE PROCEDURE.

Section 179. Any person whose property has been assessed or appropriated and who has filed objections thereto, as hereinbefore provided, shall have the right to appeal from such confirmation to the District Court of the County in which the real estate affected by said improvement is situate at any time within twenty days after the date of the publication of the last notice provided for in section 161 of this chapter. Said appeal shall be made by filing with the City Clerk of said City a written notice thereof referring to the objections filed by the appellant as aforesaid and specifying the property of the appellant concerning which said appeal is taken and by also filing with said Clerk a bond to the City of St. Cloud in the sum of one hundred dollars, executed by the appellant or someone in his behalf, with two or more sureties who shall justify, and conditioned to pay all costs that may be awarded against the appellant. Thereupon the City Clerk shall make out and file with

the Clerk of said Court a copy of the assessment roll, affecting the property specified, as confirmed by the Commission and of the order of the Commission, confirming the same and of the objections filed by the appellant and of the notice of appeal filed by the appellant and of such other papers and records in relation thereto as said appellant shall require, all certified by said Clerk to be true copies within ten days after taking of said appeal; but if more than one appeal shall be taken from the same confirmation of assessment, it shall not be necessary that the Clerk, in appeals subsequent to the first, file a copy of any of the papers or records in relation to said improvement which had theretofore been filed upon such prior appeal. Such assessment roll and certified copies thereof shall be prima facie evidence that all assessments appearing thereon are just and valid and that all property to be condemned as indicated by the description of said improvement has been legally condemned. After the filing of said copies by the City Clerk it shall be the duty of the Clerk of the District Court of the proper county without the filing of a notice of issue or a notice of trial to place said appeals upon the next general term calendar of said District Court and said appeals shall have the preference in order of trial over all civil cases in said Court. There shall be no pleadings on such appeal and the only question that shall be considered or passed upon shall be whether the charter of said City authorized said City to make said improvements and said assessments and whether said assessments in so far as they affect the property specified in the notice of appeal are fair and impartial and whether or not the Commission of said City had jurisdiction to make said assessments. The Court shall determine in the first instance whether said City had authority to make said improvements and said assessments and whether said Commission had jurisdiction in the premises; and in case said City had not authority to make such improvements or any portion or portions thereof but had jurisdiction, said Court shall annul only so much of said assessment as shall be in excess of such authority and which affect the property of the appellants and shall confirm so much of the same affecting the property of the appellant as said City had authority to make. If said Court shall determine that said Commission acted without jurisdiction, then in that event the assessment shall be entirely reversed but without prejudice to such proceedings as may thereafter be had touching the subject matter thereof by the Commission of said City. In case the amount of the assessment is complained of by such appellant and if the proceedings or any portion thereof shall be confirmed as within the authority of the City and the City shall not have filed a notice that it abandons said proceedings, then the issue as to the proper assessment of benefits or damages to the property of said appellant shall be tried before a jury the same as other issues of fact are tried, and the verdict of said jury when rendered if unappealed from shall be conclusive as to the amount of the benefits or damages suffered or sustained by the real estate of said appellants. Said appeals may be tried separately or consolidated and tried together in the discretion of the court or a portion thereof may be tried together and the balance separately in the discretion of the court.

**JUDGMENT UPON APPEAL.**

Section 180. Upon the final determination of all of said appeals in the District Court judgment shall be entered which shall fully state, disclose and specify all orders of the Court which may have been made upon said appeals and the final assessment of the benefits or damages to each tract of land involved therein stated separately, together with a statement of the costs, if any, chargeable against the City upon said appeal and if the said City shall recover costs against the appellants, then the amount which said City is entitled to recover; and the results of all of said appeals may be stated in one judgment or in several judgments as said Court or the judge thereof may direct, and there may be as many judgments as there are appellants in the discretion of said court. Whenever and as soon as final judgments are entered in said District Court, the clerk thereof shall make certified copies of same and transmit the same to the clerk of said City who shall file said certified copies in his office, and as soon thereafter as shall be practicable said Commission shall if said improvement is not abandoned correct the assessment roll theretofore adopted for said improvement in the respects indicated by said judgments and change and correct the same in all respects as therein required to be changed and corrected and re-adopt said assessment roll by proper resolution to that effect and thereupon prepare and adopt the assessment list hereinbefore specified and provided, proceedings upon which shall be in all respects as is hereinbefore provided.

**ABANDONMENT OF IMPROVEMENT. COSTS.**

Section 181. The Commission shall have the right at any time prior to the first day of the term of Court at which any appeals from said assessments for improvements shall be reached for trial, or at any time within ninety days after the final order of the Court on any appeal from such proceedings, to abandon said improvement or any part or portions thereof and all proceedings therein or any of the same, whenever it shall deem it for the interest of the City so to do. But such abandonment shall not relieve the City from the payment of such costs as may have been incurred by appellants and which are properly chargeable against said city upon any appeal that may have been taken.

**PAYMENT OF AWARD. TITLE ACQUIRED. BOND FOR DAMAGES.**

Section 182. When any assessment shall have been confirmed by the Commission and no appeal shall have been taken therefrom, or if an appeal shall have been taken when judgment shall have been rendered thereon, the same shall constitute and be a lawful and sufficient condemnation and appropriation to public use of the land and property and rights in property sought to be appropriated by said improvement, and the Commission shall thereupon cause to be paid to the owners of said property the amount awarded to each severally; but may defer such payments until the special assessments therefor, if any, shall have been collected and paid into the City Treasury. Before payment of such award, the owner of such property or the claimant of the award shall if required by said Commission furnish an abstract of title showing himself entitled

to all the compensation and damages claimed. In case of neglect to furnish such abstract or of doubt as to who is entitled to such compensation or damage, or any part of the same, the amount so awarded shall be by the Commission appropriated and set apart in the City Treasury for whoever shall show clear right to receive the same. The Commission may in its discretion require of such claimant a bond with good and sufficient sureties conditioned to indemnify and save the City harmless against all other claims for such compensation or damages, or for the property for which the same was awarded and all loss, costs or expenses on account of such claims. The Commission may also, in case of doubt, to whom the compensation and damages awarded should be paid, deposit the same with the Clerk of the District Court, of the counties in which said property is located, for whomever shall prove himself entitled thereto, and in such case the parties entitled to the same shall establish their right thereto by a petition to the said District Court, setting up the facts entitling them thereto, and by proving the same to the satisfaction of said court; and when so established the court shall make an order directing to whom the same shall be paid. Upon the payment of said award or appropriation, or the setting apart of the money therefor as aforesaid, or the payment of the same into court aforesaid, the City shall become vested with the title to the property taken and condemned absolutely for all purposes for which the City may ever have occasion to use the same, and may forthwith enter upon and use the same. Provided, however, that the City shall not be hindered, delayed or prevented by the prosecution of an appeal by any person as hereinbefore provided for, from entering upon and appropriating such property to the use for which the same is condemned, if the City shall after such an appeal has been taken, by its Mayor, execute and file with the Clerk of the District Court of the counties in which property is located, a bond to be approved by said Clerk, payable to the appellant, conditioned that the City shall pay whatever sum shall finally be awarded as damages to such property so condemned and appropriated, less such sum as shall be assessed thereon as benefits. The Mayor of the City is hereby authorized and empowered to execute such bond in behalf of the City.

#### ERRORS NOT TO VITIATE ASSESSMENTS.

Section 183. No error or omission which may have been heretofore, or shall be hereafter made in the proceedings of the Commission or of any officers of said City concerning any local improvement provided for in this chapter or in any assessment therefor, not affecting the substantial justice of the assessment itself, as to the amount thereof, shall vitiate or in any way affect such assessment.

#### ASSESSMENTS MAY BE MADE ANEW. WHEN.

Section 184. If any special assessment heretofore made or that shall hereafter be made by the Commission or under its direction, to defray the expense of any local improvement or the building or repairing of any sidewalk has been or shall be, either in whole or in part annulled, vacated or set aside by the judgment of any court, or if the Commission shall be satisfied that any such assessment is



so irregular or defective that the same cannot be enforced or collected, or if said Commission shall have omitted, or shall hereafter omit to make such assessment at or before the making of the improvement, the Commission may anew or thereafter make a new assessment of the cost of such improvement or improvements upon the property benefited thereby in the same manner as near as may be that such assessment or assessments should have been originally made, and in case any such assessment shall be annulled, the Commission may make other and additional assessments until a valid assessment shall be made; but nothing in this section shall authorize a new assessment in cases where such court shall determine that the lots or land are not subject to assessment. After such new assessment roll shall be adopted, the City Clerk shall note thereon against any piece of land upon which a former assessment for the same improvement has been paid, the word "Paid" which shall cancel such assessment on that parcel; and in all cases where a judgment in favor of said city has been heretofore or shall be hereafter refused or denied by any court, or where any court has heretofore or shall hereafter set aside or declare void any assessment upon any parcel of land for any cause, the said lots or parcels of land may be assessed or newly assessed from time to time, until each separate lot, piece or parcel of land has paid its proportionate part of the cost and expense of said improvement as near as may be. In case the amount of such reassessment shall be less than the first assessment, the deficit may be paid out of the Permanent Improvement Fund. In case of such reassessment, the proceedings may be either as in case of any original special assessment for the same purpose, or by taking up the previous proceedings at any point. In case any such assessment adjudged invalid shall have been transmitted to the County Auditor for collection, the Commission may in its discretion notify him to cease the collection of the same.

#### ADDITIONAL ASSESSMENTS FOR DEFICIT.

Section 185. If in any case the first assessment to pay for any local improvement which has heretofore been, or shall hereafter be ordered by the Commission, either before or after such improvement is completed, shall prove insufficient to fully pay for the same, whether such work was done before the adoption of this charter or otherwise, the Commission may assess and re-assess the same upon the property benefited until a sufficient amount is realized to pay the same. If too large an amount shall at any time be raised the excess shall be refunded ratably to those by whom it was paid, if the Commission shall so order, it being the true intent and meaning of this act to assess and re-assess the property benefited to the extent of such benefits for any deficiency over and above the first assessment which said improvement may cost, whether the said improvement has heretofore been made or may hereafter be made. And no error or omission or irregularity, whether jurisdictional or otherwise, shall prevent a re-assessment to the extent of the benefits conferred by such improvement.

#### PAYMENT TO TREASURER. RECEIPTS.

Section 186. After any special assessment roll shall have been adopted, and before the assessment or installments thereon shall



have been transmitted to the County Auditor for collection, any assessment thereon or any installment or installments thereon may be paid direct to the City Treasurer of said City who shall issue receipts in duplicate therefor, and forthwith deliver one of said receipts to the person making such payment, and the other to the City Clerk; and upon the presentation of either of said receipts to the City Clerk, he shall enter upon the record of such assessment list kept in his office opposite the assessment or installments so paid, in a proper column entitled "Paid City Treasurer," the amount so paid; which entry shall cancel the assessment or installment or installments so paid, and the same shall not be included in the statement transmitted to the County Auditor.

#### ABBREVIATIONS MAY BE USED.

Section 187. In all proceedings concerning improvements and special assessments and appraisements therefor, letters, figures, characters and abbreviations may be used to denote lots, parts of lots, lands and blocks, sections, townships, ranges and parts thereof, the year and the amounts.

#### LIABILITY FOR NEGLIGENCE OF DUTY.

Section 188. Any officer of said City who shall in any case knowingly neglect to perform any duty enjoined upon him by this chapter or who shall consent to, or connive at any evasion of its provisions, whereby any proceeding required by this chapter shall be prevented or hindered, shall for every such neglect or refusal be liable to said city individually and upon his official bond for double the amount of loss or damage caused by such neglect or refusal to be recovered in an action in any court having jurisdiction of the amount thereof.

#### ASSESSMENTS AGAINST RAILWAYS.

Section 189. When in any case any portion of the costs and expenses of making an improvement mentioned in this charter shall by virtue of any valid law or ordinance or by virtue of any valid contract be chargeable upon any railway company, the amount so chargeable may be assessed upon and against such railway company and the balance only upon the real estate benefited thereby and the city may collect the amount so assessed upon said railway company by distress and sale of personal property, or by suit brought for the purpose; provided, however, that any real estate belonging to such railway company and deemed benefited by the said improvement shall be assessed as in other cases.

#### FRONTAGE ON TWO STREETS, ALLOWANCE FOR.

Section 190. The Commission may in its discretion in case where any lot fronting on two streets is being assessed according to the number of feet frontage of such lot and the frontage on any street shall have been so assessed, remit from the frontage of said lot on any other street, such portion of the same not exceeding a frontage of sixty-six feet as the Commission deem just under the circumstances in the case; but the discretion of the Commission in such matter shall be final and the refusal or failure of said Com-

mission to make such remission, shall not be a ground for changing such assessment or the amount thereof in any court or proceeding.

#### WORK DONE, WHEN AND WHERE.

Section 191. Any improvements, the means to make or construct which may be raised by special assessment may be performed by contract let to the lowest responsible bidder, after the publication of a notice for one week, or if the amount does not exceed Three Hundred Dollars then directly by the City by the employment of labor and purchase of material or in any other manner in which the Commission may deem proper in each particular case. And the Commission may in its discretion, in any case instead of causing a special assessment to be made entirely upon the estimate, wait until the letting of the contract for such improvement shall be made before determining and fixing upon the costs and expense of such improvement or causing the proper assessment to be made therefor. And said Commission may cause such assessment to be made at any time either before the making of such improvement or after the completion thereof. The Commission may, if it determine upon the making of any improvement, determine whether to proceed at once with such improvement or to await the collection of the assessment therefor or of any portion thereof. No special assessment shall be questioned or held to be invalid because the amount thereof shall happen to be either more or less than the amount of money actually required for the improvement for which the same shall be made.

#### CITY SUED FOR PROPERTY, MAY CONDEMN SAME.

Section 192. Whenever the City of St. Cloud shall have appropriated any property or any interest or easement therein, for any lawful purpose to which said City had not the title, said City may at any time, in any suit to recover the same or in which the right of the City thereto is called in question, by its answer admit the appropriation of the same and allege that said City is ready and willing to pay a just compensation therefor, on having the same assessed and ascertained in the manner in this chapter provided in case of appeal, provided the claimant on the trial shall establish his right to recover the same, and the court shall first determine whether the claimant is entitled to recover the property or rights or easement therein in controversy; and if such question is determined in favor of the plaintiff, shall cause the amount of the compensation to which the plaintiff is entitled to be ascertained as in case of appeals; provided, that when it shall appear that the land or other real estate was taken or appropriated by and with the consent or acquiescence of the owner, such owner shall not be entitled to recover any rents or profits which accrued prior to demand for compensation for such land or other real estate, and he shall be limited to a recovery in such case, to compensation for the land taken and damages. And the Court shall have the power to make all necessary orders and render all necessary judgments to carry out the provisions of this section. And in case such compensation shall not be paid within ninety days after the final order and determination of the Court therein, the plaintiff shall recover said property and have all proper proceedings therefor. The Commis-

sion may defray the expense of such compensation by special assessments as in the case of other improvements.

#### BUILDING ALLOWED TO REMAIN. USE OF LAND.

Section 193. In the assessment of damages and benefits for the making of any improvement, it shall be lawful for the Commission, in its discretion, in making such assessments, should there be any building in whole or in part upon the land to be taken as aforesaid, to consider the propriety of letting such building remain upon such land taken as aforesaid, for such time after condemnation as they may deem for the best interest of the City, and if they shall determine to let the building remain on said land for any given period, then they shall determine the value of the use of said land to the owner of said building for the time said building may be permitted to remain, which sum, when ascertained, shall be deducted from the damage awarded for said building.

#### EVIDENCE OF TITLE TO BE RECORDED.

Section 194. It shall be the duty of the City Clerk to cause all deeds taken by the City for lands acquired by condemnation or otherwise to be recorded without delay, and the said Clerk shall be the custodian thereof; in case no deed is given for any property appropriated for any improvement, it shall be the duty of said Clerk to file with the Register of Deeds of the proper county or counties, a certified copy of so much of the description of such improvement and of the plat or plats filed with such description as shall be necessary to indicate the property appropriated for such improvement; and the same may be recorded by said Register of Deeds, and such certified copy and the record thereof shall be prima facie evidence of title in the City of St. Cloud to the property indicated thereby as appropriated for such improvement. And it shall be the duty of the Register of Deeds to record such deeds and certified copies without requiring a certificate of the County Auditor that taxes and assessments thereon are paid. At any time after the assessments for any improvement or any portion thereof shall have been confirmed, and the time to appeal from such confirmation shall have expired, such certificate may be filed as to all portions of the same so confirmed and not appealed from, and such certificate as to any portion appealed from may be filed at any time after the final determination of the Court on such appeal.

#### PRIOR ASSESSMENTS LEGALIZED.

Section 195. All assessments heretofore made by the Common Council of the City of St. Cloud, to defray the expense of making any public improvement now constructed, or the estimated expense of any public improvement ordered to be constructed, and to defray the damages and compensation awarded to owners of property taken or injured by such improvements are hereby legalized and made valid, and the same may be collected and the collection thereof enforced to the same extent for all purposes as though the same had been in all things regularly and formally ascertained, levied, assessed and returned in the first instance.

**ASSESSMENT, HOW COLLECTED FROM COUNTY.**

Section 196. Whenever any assessment shall be made under any of the provisions of this charter against any real estate owned or claimed by any county, such assessment shall be returned to the Auditor of said County with and in the same manner as other like assessments, and the County Board of said County shall thereupon and within six (6) months after such assessment has been so returned to said Auditor, appropriate from the treasury of said County and cause to be paid to the Treasurer of the City of St. Cloud, sufficient sums of money to pay all such assessments. In case of the failure of said County Board to appropriate money for and pay any such assessment within the time above specified, such assessment may be collected from said County in any appropriate suit or action.

**PROPERTY OWNERS MAY CONSTRUCT IMPROVEMENT.**

Section 197. Property owners may be allowed to construct street and other public improvements upon or through their own property, at their own expense, in such cases and upon such terms, and under such regulations as the Commission may prescribe from time to time by resolution.

**ASSESSMENTS FOR SIDEWALKS. FORM.**

Section 198. Whenever sidewalks shall have been constructed by the City as in this charter provided, the Commission shall, at such time or times thereafter as it deems proper assess and levy upon and against each lot and parcel of land along which the same shall have been so constructed or repaired, the expense of constructing or repairing the same along such lot or parcel of land, and shall adopt an assessment roll which may be substantially in the following form, or in any other form the Commission may adopt:

"The Commission of the City of St. Cloud doth hereby assess and levy upon and against the several lots and parcels of land below described, the respective sums set against each lot or parcel. This assessment is made to defray the costs of (constructing or repairing) sidewalks along said lots and parcels of property:

Description of Property	Amount		
	Dolls.	Cts.	

"Done at a meeting of the Commission this .... day of .....  
A. D. 19..

Attest: .....

City Clerk."

.....

Mayor.



And no such assessment shall be set aside as to any parcel of property unless it shall be shown affirmatively that said sidewalk as to such parcel was not constructed or repaired at the expense of the City, or that said parcel of property was exempt from taxation. In case it is shown that said assessment as to such parcel is excessive, the same shall be reduced to the amount justly chargeable thereon, and be valid to that extent.

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## CHAPTER XIII.

### STREETS, SIDEWALKS, BRIDGES AND PUBLIC GROUNDS.

#### POWERS AS TO HIGHWAYS AND PUBLIC GROUNDS.

Section 199. The Commission shall have power to care for, supervise and control, to name and rename, to lay out, alter, widen, extend, straighten and narrow, to open, construct, re-construct, build, re-build, maintain, repair and close to travel, to grade, and re-grade, either partially or to established grade, to curb, re-curb and gutter, to pave, re-pave and macadamize, to clean, park, beautify and otherwise improve, or cause the same to be done, at such times and in such manner as they deem proper, the highways, streets, alleys, bridges, culverts, parks, parkways, public squares and grounds within said city or such portion of the same or any of the same as they deem proper.

#### ESTABLISHMENT OF GRADES. CHANGE OF GRADES.

Section 200. The Commission may cause to be established from time to time, and as rapidly as the convenience of the inhabitants may require, under the direction of the City Engineer, the grade of all streets, parkways, sidewalks, alleys and public grounds in the said city, and shall cause accurate profiles thereof to be made and kept in the office of the City Clerk. And may change the grade of any of the same, after such grade has been established.

#### VACATION OF HIGHWAYS AND PLATS.

Section 201. The Commission may also by the unanimous vote of the members thereof, vacate any highway, street, lane or alley or portion of either, or any plat or portion of any plat of lands; and such power of vacating highways, streets, alleys, lanes and plats within the City of St. Cloud is vested exclusively in said Commission, and no court or other body or authority shall have any power to vacate any such highway, street, lane or alley nor any plat or portion of any plat of lands, within said City. Provided, however, that before any highway, street, lane or alley or portion thereof within said City shall be vacated by said Commission, that an application therefor in writing shall be filed with the City Clerk, and notice of hearing upon said application shall be given by said City Clerk by publication in the official paper of the City once in each week for four successive weeks, immediately preceding such hearing, and provided further that the expense of publication of said notice shall be paid by said applicant.



## CONSTRUCTION AND MAINTENANCE OF SIDEWALKS.

Section 202. It is hereby made the duty of all owners of land adjoining any street, lane or alley in said City, to construct, re-construct and maintain in good repair such sidewalks along the side of the streets, lane or alley next to the lands of said owners respectively, as may have been heretofore constructed, or as shall hereafter be constructed or directed by the Commission to be built; and according to the plans and specifications thereof in the office of the City Clerk, and at such grade or grades as shall be indicated by the City Engineer. The Commission may designate the grade or grades for any sidewalk or sidewalks or portion thereof without regard to the grade of the street or the established grade; and in cases that it deems proper may authorize the City Engineer to make such designation. At the request of any person about to build a sidewalk ordered to be built by the Commission, it shall be the duty of the City Engineer to furnish such person the proper grade lines therefor. Whenever the Commission shall deem it necessary that any sidewalk in the City of St. Cloud shall be constructed or re-constructed, it shall cause plans and specifications therefor to be prepared or designated, and kept in the office of the City Clerk. The Commission shall also cause a notice to be published twice in the official paper of the City, which notice may be substantially in the following form, viz:

"Notice is hereby given that the Commission of the City of St. Cloud has ordered sidewalks to be constructed (or re-constructed), according to the plans and specifications therefor in the office of the City Clerk, as follows: On the ..... side of (name of street or avenue) from ..... to ..... (similar statements for other sidewalks.)

"That the grade lines for the same will be furnished by the City Engineer, and that the same must be constructed within thirty days from the date of the first publication of this notice.

"Dated .....

.....

"City Clerk."

Any number of sidewalks may be included in one notice, and such publication shall be sufficient notice to the owners of the land along which such sidewalks are to be built, to construct the same; and unless the respective owners shall construct and fully complete the same along their respective tracts of land within thirty days after the date of the first publication of said notice, the Commission shall construct and complete the same; Provided, that any such sidewalk may be built by the owner of the land abutting upon the same at any time before the Commission commences the construction of the same. The expense of all sidewalks constructed by the Commission shall be assessed to the abutting property, as provided in the chapter on special assessments.

## SIDEWALKS, WHEN REPAIRED, WHEN REMOVED.

Section 203. If the owner of any lot or parcel of land shall suffer any sidewalks along the same to become broken, rotten or

out of repair, it shall be the duty of the Commission immediately to repair the same in a good, substantial and thorough manner. The Commission shall assess and levy upon each of the lots or parcels of land fronting or abutting on such sidewalks that have been so repaired the cost of making such repairs as provided in the chapter on special assessments. In case any such sidewalks shall become so out of repair as to become dangerous, and cannot be made safe, without being rebuilt, it shall be the duty of the Commission to remove the same entirely, and the expense of such removal shall be collected in the same manner as the expense for repairs.

#### STREET LIGHTING AND SPRINKLING.

Section 204. The Commission may cause such portions of the streets, alleys, and public grounds of the city to be lighted and sprinkled as it may deem proper, and may prescribe the manner in which the same shall be done, and the time during which the same shall be done, and may make all necessary contracts for the doing of the same.

#### LIABILITIES FOR CAUSING DEFECTS IN STREETS.

Section 205. All persons who shall cause or maintain any obstruction, excavation or defect in any street, alley, bridge, sidewalk, thoroughfare or public ground of said City by means of which a claim for damage shall arise against said City, shall be liable for such damage to whomsoever shall be entitled to recover the same from said City; and no action for such damages shall be brought or maintained against said City unless such person or persons shall be joined as defendants; and in case of judgment against the defendants in such action, execution shall issue only against the defendant causing such deficiency, and the city shall not be required to take steps to pay such judgment, until such execution shall be returned unsatisfied; and if the City shall pay such judgment it shall become the owner thereof, and may enforce payment of the same from the other defendants, and shall be entitled to execution thereon against them and to take such other proceedings as judgment creditors are entitled to take.

#### SUMMONS PUBLISHED IF CO-DEFENDANT IS A NON-RESIDENT.

Section 206. Whenever any party is joined with said City as co-defendant in any action for the insufficiency of any street, alley, bridge, sidewalk, thoroughfare, or public ground, and any such party is not a resident of and cannot be found within the state, service of summons in such action may be made upon such defendant upon like evidence and in like manner as prescribed by general laws for service by publication in other actions.

#### ACTION FOR DAMAGES. NOTICE. WHEN BARRED.

Section 207. No action shall be maintained against the City of St. Cloud on account of any injuries or damages received by means of any defect or obstruction in any street, alley, bridge, sidewalk, thoroughfare, or public ground unless such action shall be commenced within one year from the happening of the injury or damage, nor unless notice shall have first been given in writing to the

Mayor of said City, or the City Clerk thereof, within thirty days of the occurrence of such injury or damage, stating the place, where, and the time when such injury or damage was received, the general character of the same, and that the person so injured will claim damages from the City therefor; but the notice shall not be required in case of injury to the person, if the person injured be bereft of reason in consequence thereof. No such action shall be maintained for any defect in any street or alley, until the same shall have been graded and opened for travel, nor for any defect in the same when the same is closed to travel; nor for any insufficiency of the ground where sidewalks shall be constructed, when sidewalks have not been built or have been removed.

#### LANDS, WHEN TO BE PLATTED. PLATTING REGULATIONS.

Section 208. Whenever any person shall subdivide any lot or piece of ground within said City into building lots, for the purpose of selling the same or any part thereof, or shall sell off parcels of the same for building sites, or of the usual sizes for building sites, he shall cause the same to be surveyed and platted in accordance with the provision of the general laws of the State of Minnesota, and when such survey and plat are so completed and acknowledged, it shall be presented to the Commission, together with an abstract of title of the land so platted. All plats presented to the Commission for acceptance and approval must be drawn in duplicate, one copy to be drawn on good and substantial muslin-backed paper, and one copy to be on tracing vellum. Said plats shall be of such uniform size as may be prescribed by the Commission; said Commission may accept or reject such plats or direct them to be changed or modified in such manner as it shall deem expedient, and may prescribe such rules and regulations for the platting of lands, and the making, examination and approval of plats thereof as it shall deem proper. No plat of a proposed new addition shall be accepted by the Commission unless the streets, alleys and other public grounds presented thereon shall conform to the streets, alleys and other public grounds of the adjoining plats already platted, and the plats approved and recorded, so far as is practicable; no plat of any proposed new addition shall be approved by the Commission unless the same is presented in duplicate as aforesaid, and no such plat shall be approved unless the certificate of the surveyor or engineer making the same shall state that at each corner of each and every lot in said addition, where it is possible to do so, a substantial stake has been set, and that a stone monument with a proper crossmark thereon has been set at each corner of said addition.

Said monument shall be at least two and one-half feet in length and five inches square at the top, and shall be set at least two feet in the ground. Whenever any plat is approved by said Commission, the City Clerk shall so certify thereon, and the muslin-backed paper plat shall be filed in the office of the proper Register of Deeds, and the vellum plat in the office of the City Clerk. No plat of lands within the limits of said City shall be filed by any Register of Deeds until the same has been approved by the Commission, and the certificate of the City Clerk as aforesaid endorsed thereon. The acceptance of a plat of any ground within the limits

of the City shall not make the City liable to grade the streets therein designated, or responsible for any insufficiency of said streets, until the Commission shall cause the same to be graded and opened for travel. All the provisions of Section 3368 of the Revised Laws, 1905 of Minnesota, shall be applicable to said City, and in addition thereto no person shall be entitled to any damage for the laying out or extension of any street, alley or highway, over any lot or parcel of land sold or offered for sale contrary to law.

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## CHAPTER XIV.

### SEWERAGE AND WATER WORKS.

#### SEWER SYSTEM. DISTRICTS.

Section 209. The Commission of the City of St. Cloud shall have power to establish, construct and maintain at any time and from time to time any general system or systems of sewerage for said City or any portion thereof in such manner and under such regulations as said Commission may deem expedient, and such system or systems of sewerage, to alter or change from time to time, as said Commission may deem expedient, and may from time to time establish, alter or change, such sewerage district or districts as it may deem proper; and shall have power to maintain the sewers heretofore and hereafter established in said City, and to enlarge, extend, relay and improve the same, as it shall consider the public good shall require; and said Commission may cause sewers connected or intended at some future time to be connected with any such system or systems of sewerage to be constructed from time to time.

#### COST, HOW DEFRAIDED.

Section 210. The cost of making any improvements authorized by this chapter together with the necessary expenses of making the assessments therefore may be assessed upon the property benefited thereby, and enforced and collected in the manner and under the regulations provided for local improvements in said City; provided, that the Commission may determine that such proportion of the cost thereof as it may deem proper be paid out of the Permanent Improvement Fund, the Revenue Fund, or the Water Works Fund of said City.

#### RIGHT OF WAY FOR MAINS AND DITCHES.

Section 211. Whenever the Commission of said City may deem it necessary to cross private property to construct any water main, sewer, ditch or drain thereon, the City of St. Cloud may take, possess, have and hold an easement in, over, under and across any such property for the purpose of constructing, altering, protecting and repairing such sewer, ditch or drain, and the proceedings therefor shall be as provided by law.

#### CONSTRUCTION OF BRANCH PIPES AND SEWERS.

Section 212. The Commission may at all times regulate and control the time and manner of the laying and constructing by pri-



vate parties of branch pipes and sewers leading from water mains and sewers, and of making connections with water mains and sewers and with branch lines thereof, both public and private. The Commission may, whenever it shall deem it necessary to lay or construct branch pipes or branch sewers, in order to prevent future tearing up of streets, or for any other reason, determine in the case of each main line the location, number and manner of construction of such branch lines, providing, in its discretion, one or more for each district, lot or parcel of land, or one for two or more adjacent lots or parcels of land. And may, whether such main line has already been constructed or is in process of construction, forthwith lay and construct all such branch pipes and sewers not already constructed by the private parties interested, from a connection with the main line to the line of the street.

#### DRAINING WET DISTRICTS.

Section 213. Whenever the Commission shall determine that any lake or any wet or marshy district in said City needs to be drained, for the public health of the City, or for other public benefit, then the said Commission may cause to be devised and carried into construction and effect a system of drainage for such wet and marshy district, by sewers or covered drains made of wood, stone, brick or other material, or partly of one material and partly of other materials, as the said Commission shall determine; or by open ditches or canals, where the same will best effect the drainage; or partly of sewers or covered drains, and partly of open ditches or canals. Said system of drainage for any such wet or marshy district may be constructed at one time during one year, or at different times in different years, and in different parts or sections.

#### PIPES AND WIRES WITHIN AREAS.

Section 214. The Commission may, subject to such terms, and under such regulations as it may fix, require all persons using an area or space within the lines of any street, to permit to be laid within such area or space all necessary branch pipes, both water and gas, and branch sewers to a connection with other branches, and also to be laid therein, enclosing in tubes or otherwise protected, any and all electric and other wires it may at any time require laid beneath the surface of the street, and in the future no permits for the excavation or use of any area or space within the lines of a street shall be given except upon condition that it may be used by others in the manner and for the purpose above named.

#### MANAGEMENT OF WATER WORKS.

Section 215. The Commission shall have the control and management of the city water works, and shall have power to enlarge, extend, relay and improve the same as it shall consider the public good shall require.

#### BY-LAWS, ETC.

Section 216. The Commission is hereby authorized to make and enforce such bylaws, rules and regulations as may be necessary to carry into effect the object and intent of this chapter and to cause all such by-laws and regulations to be entered in a book kept

for that purpose and signed by the Mayor and City Clerk, which when so entered and signed shall be open at all times for inspection and shall be evidence of said rules in any Court of Justice. Said rules when adopted by the Commission shall be printed in pamphlet form and a copy thereof delivered to each water consumer in said City.

#### DISTRIBUTION AND WASTE.

Section 217. The Commission shall regulate the distribution of water in all places and for all purposes where the same shall be required for either public or private use and shall fix the price of all water used or furnished by said City by resolution but the present ordinance of said City relating thereto shall be continued in force until such resolution shall be adopted at which time such resolution shall supersede said ordinance.

The Commission is hereby authorized and required to restrain and prevent any and all waste of water and may, when in its judgment necessary, shut off the water or take such other action as in its judgment may be proper.

#### COLLECTION OF WATER RENTS.

Section 218. The Commission shall have full power and authority to require payment in advance for the use of water furnished by it, in or upon any building, place or premises and in case prompt payment for the same shall not be made then it shall shut off such water until such payment is made and in addition thereto impose such fine as may be prescribed by the said Board, and after said water shall be shut off as herein provided, the building, place or premises shall not again be supplied with water until all arrears, together with costs and expenses of turning off and on said water and such fine shall have been fully paid.

#### LIABILITY OF PROPERTY OWNERS.

Section 219. The owner of any private property which has upon it pipes connected with the city water works to convey water thereto shall as well as the lessee, or occupant of such premises, if any, be liable to the City for the rents or rates for all water from said water works used upon said premises and such rents or rates shall be and constitute a lien upon said premises and may be recovered in any action against such owner, lessee or occupant or against any one or more than one, which action may be either a personal action or an action to foreclose said lien.

#### DUTIES OF CITY CLERK AND TREASURER.

Section 220. The City Clerk shall keep in his office a set of books which shall show the names of all persons using water in the City of St. Cloud, together with the terms and rates upon which each person is using the same. Said books shall also show in detail all property appurtenant to or used in connection with the water plant, and the condition and operation of said plant.

At the first of each quarter, and at such other times as the Commission shall direct, he shall make duplicate statements showing the amount due the City from each user of water, one of said duplicates shall upon demand be delivered to the party, in whose

name it is made, or to his representative, who shall pay the amount designated in said statement to the City Treasurer, who shall upon such payment receipt for the same and take up and file in his office said duplicate statement.

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## CHAPTER XV.

### CONTRACTS.

#### CONTRACTS FOR OFFICIAL ADVERTISING.

Section 221. The Commission shall let annually, in the month of May, contracts for the official advertising for the ensuing fiscal year. For this purpose the Commission shall advertise for two consecutive days, setting forth specially the work contemplated to be done, and asking for sealed proposals therefor. The proposals shall specify the type and spacing to be used and the rate or rates named in the bids. The Commission shall let the contract for such official advertising to the lowest responsible bidder publishing a daily newspaper in the City, which is a legal newspaper according to the laws of the State, provided, that the Commission may reject any or all bids if found unsatisfactory, and advertise for new bids. The newspaper to which the award is made shall be designated as the "Official Newspaper." The successful bidder shall be required to give a bond to the City in the sum of one thousand dollars for the faithful performance of his contract.

#### OTHER METHODS OF PUBLISHING. CONTRACT.

Section 222. If none of said proposals fix a price as low as the lowest commercial rate for matter set in similar type and style, the Commission may reject all such proposals, and adopt such other method of publishing such matter as it may in its discretion determine, anything in this charter to the contrary notwithstanding, and in case said Commission deem the paper designated in the lowest bid as not a proper medium for placing before the taxpayers of the City matters so required to be advertised, it may reject such bids. If said Commission shall designate any newspaper as the official paper of said City, the newspaper so designated shall be and remain the official paper of the City, and the contract and bond aforesaid shall remain in force for the term designated, and until the Commission shall designate another paper or other means as the official means of advertising the proceedings of the City. The Commission may from time to time make such contracts as it deems proper for job printing and blank books for said City.

#### NO PAY TILL AFFIDAVIT OF PUBLICATION IS FILED. EVIDENCE.

Section 223. The publisher or publishers of said official paper, immediately after publication of any notice, ordinance or resolution, which by this charter is required to be published, shall file with the Clerk of the City a copy of such publication, with his or their affidavit, or the affidavit of his or their foreman or clerk, of the length of time the same has been published, and such affidavit shall be conclusive evidence of the publication of such notice, ordinance

or resolution. No compensation for any such publication shall be made or allowed by the Commission until such proof of publication has been made and filed.

#### WORK, BY CONTRACT OR DAY'S WORK. BIDS.

Section 224. All work done or constructions made of any kind by the said City of St. Cloud may be done by contract, awarded in such manner as the Commission of said City may deem advisable, or said Commission may, in its discretion, direct any such work or construction or any part thereof, which it shall deem necessary to be made, to be done by day's work, under the direction of the said Commission, or any officers of said City, whom the said Commission may designate. Whenever said Commission shall determine to contract for any commodities, labor, services or other matter to be furnished or performed, if the amount of expenditure involved in said contract shall exceed the sum of two hundred fifty dollars (\$250.) public notice shall be given and proposals invited for the same, in such manner as the said Commission shall direct by resolution.

#### TO WHOM CONTRACT MAY BE LET. VOTES REQUIRED.

Section 225. The Commission shall not entertain any bid from or let any contract to any person, firm or corporation who is in default to the City of St. Cloud on any contract or bond or in any other way, whether said bond or contract be for doing anything or furnishing any material.

#### DEBTS, ORDERS, EXECUTION AND RECORD OF CONTRACTS.

Section 226. No debt or liability shall be incurred or created by the City, the Commission, the Council or any officer of the City, except pursuant to authority expressly given for that purpose; and no order or orders shall be issued upon the City Treasurer exceeding in amount the tax collected or assessed, or in process of collection, except as otherwise provided. All contracts to which the City is a party shall be signed on behalf of the City by the Mayor and countersigned by the City Clerk, and no contract shall be valid unless signed by both of said officers. All contracts with the City shall be recorded by the City Clerk in a proper book for that purpose and he shall keep an index thereto. Said record or a certified copy thereof shall have the same force and effect as evidence as is given to the original contract.

#### FUNDS INSUFFICIENT, CLERK TO REPORT, AND NOT TO SIGN CONTRACT.

Section 227. Whenever the amount contracted or appropriated to be expended out of any fund shall be greater than the amount of such fund actually on hand, and one-third of the amount of uncollected tax for the current fiscal year applicable to such fund, or when the amount called for by any proposed contract shall, together with the amount appropriated or contracted for, exceed the amount of such fund on hand, and such one-third of the uncollected taxes, the City Clerk shall forthwith notify the Commission of such fact and he shall not countersign any contract payable out of any such fund on hand, until the amount of such fund on hand, with one-third of the amount of uncollected taxes aforesaid,



shall be sufficient to meet the liabilities created by such contract in addition to all liabilities previously contracted for.

#### RIGHT RESERVED TO REDUCE AMOUNT OF CONTRACT.

Section 228. In all contracts made by the City, the right to reduce the amount of service to be rendered, the amount of work to be performed, or the amount of material to be furnished, whenever in the opinion of the Commission it shall appear that the City may not have sufficient funds applicable to fully pay for the full performance of all the same, is hereby reserved, and shall be a condition of all contracts.

#### DEPOSIT FORFEITED, WHEN. REJECTION OF BIDS.

Section 229. Whenever the Commission shall receive bids for the letting of any contract and shall require such bids to be accompanied by a bond, certified check or other deposit, and said contract shall be awarded to any of said bidders, if such bidder shall not execute the proper contract and bonds within such reasonable time thereafter as said Commission may allow, such deposit or the amount of such bond shall be forfeited to the City of St. Cloud as liquidated damages, and said City may have any appropriate action for the recovery thereof. Said City shall in all cases have the right to reject any and all bids and shall so state in their proposals therefor.

#### BONDS, WHEN REQUIRED. CONDITIONS.

Section 230. Whenever the Commission shall make any contract involving an estimated expenditure by the City of more than three hundred dollars (\$300.), said Commission shall require from the contractor or contractors a bond to the City of St. Cloud in such sum and with such sureties as said Commission or any officer or officers designated by it, may approve, conditioned for the faithful performance of said contract, and all and singular its terms and conditions; and in case such contract is for the doing of any work or the making of any improvement, said bond shall also be conditioned to hold said City harmless from all expense, claims, demands and liabilities caused by any acts or negligence of said contractors and their employees or any of them, and shall also be conditioned to pay all just claims for labor or work performed or materials furnished for such contractors in and about such contract; Such bond shall inure to the benefits of any and all persons holding such claims, and they may maintain several actions thereon for the collection of their respective claims. In case any such bond shall be insufficient to pay all claims secured by it, the claim of said City or for which said City is liable shall be first paid.

#### CONTRACTOR DERELICT, CITY MAY COMPLETE CONTRACT.

Section 231. If in the opinion of the Commission any work under any contract does not proceed each month so as to insure its completion within the said time named in the contract, or is not being performed in accordance with the terms of the contract, the said Commission shall have power to furnish and use men and materials to complete the work, and charge the expenses thereof to the contractor, and the same shall be deducted from any moneys

due him or to become due such contractor, or may be collected from him or his bondsmen, if any, in a suit by the City, or said Commission may relet the uncompleted portion of such contract.

## CHAPTER XVI.

### FIRE DEPARTMENT.

#### FIRE LIMITS AND BUILDINGS THEREIN.

Section 232. The Council, for the purpose of guarding against the calamities of fire, shall have power to prescribe by ordinance the limits within which wooden buildings, or other buildings, the material or construction of which shall be considered as not fire proof or as dangerous to surrounding property, shall not be erected, enlarged, placed and repaired, and to direct that any and all buildings within the limits prescribed shall be made and constructed of fire proof material, or of such materials, in such manner, and with such precautions against fire as the Council shall by ordinance prescribe, and to prohibit the repairing, enlarging or rebuilding of wooden buildings within the fire limits when the same shall be damaged to the extent of fifty per cent or more of the value thereof; and to prescribe the manner of obtaining consent to make repairs in such fire limits and of ascertaining the extent of damages.

#### FIRE LIMITS NOT REDUCED. FIREPROOF SIDEWALKS.

Section 233. The Council may prohibit by ordinance the construction of wooden sidewalks within the fire limits of the City or any portion thereof whenever it seems proper, and fire limits, when once established, shall not be reduced in extent.

#### REGULATIONS FOR PREVENTION OF FIRES.

Section 234. The Council shall have power to prescribe by ordinance in what manner and of what material chimneys shall be constructed and to prevent the dangerous construction and condition of chimneys, fireplaces, hearths, stoves, furnaces, stovepipes, ovens, boilers, and apparatus used in and about any building, and to cause the same to be removed or placed in a safe and secure condition when considered dangerous; to compel the use of spark-arresters in all smoke stacks connected with apparatus where light fuel is used; to so regulate the burning of soft coal as to minimize the production of smoke, soot and cinders; to prevent the deposit of ashes in unsafe places; to regulate and prevent the carrying on of manufactories dangerous in causing or promoting fires, and the storing of inflammable or explosive materials, and the use of fire works and fire arms; to regulate and prevent the sale, or keeping for sale or use, of any fire works, Chinese crackers, rockets, torpedoes or other explosive contrivances, and to provide for the seizure and destruction of the same; also to compel owners of buildings to have scuttles in the roofs, and stairs and ladders to the same, and compel owners and occupants of buildings of three or more stories in height to maintain ladders and fire escapes, and to regulate the number and location thereof; to provide for the regulation and construction of smoke houses, and to prohibit them

where they shall be deemed dangerous to other buildings, and to make any other provision to guard against fire or to prevent the spreading of fires which the Council may deem proper.

#### REGULATION OF BYSTANDERS, ETC., AT FIRES.

Section 235. The Council may by ordinance provide for the punishment of any persons violating the rules or regulations pertaining to the fire department, and to make provisions by ordinance to keep away from the vicinity of any fire all idlers and suspected persons and to compel all bystanders to aid in extinguishing fires and in the preservation of property exposed to danger thereat.

#### PUNISHMENT OF OFFENDERS. INJUNCTIONS.

Section 236. The Council may by ordinance prescribe penalties not exceeding a fine of one hundred dollars or imprisonment for ninety days or both for the violation of any of the provisions of this chapter and for the violation of any of the provisions of any ordinance, by-law, rule or regulation, passed or adopted by the Council or Commission under or pursuant to this chapter. Any person who shall threaten or attempt any such violation may be enjoined and prohibited therefrom by any court of competent jurisdiction in an action brought by the City or any person who may be damaged thereby.

#### REMOVAL OF DANGEROUS BUILDINGS.

Section 237. The Commission shall have power to order any building, structure, or materials therefor, hereafter erected or in process of erection, within the City, of which the construction or materials may be dangerous to surrounding property, to be taken down or removed. To this end the Commission shall have, within the limits of the City of St. Cloud, all the powers and authority of the State Fire Marshal as the same now are or hereafter may be prescribed by law, and the notice and procedure prescribed in case of removal and taking down of material and buildings by the State Fire Marshal shall be due process.

#### FIRE DEPARTMENT AND APPARATUS.

Section 238. The Commission is authorized to provide a fire department for the City; to provide all the means, apparatus and appliances necessary or convenient for the control and extinguishment of fires; and to provide for maintaining and keeping the same in order; to provide buildings for the use of the fire department; to provide fire alarms and means for giving notice of fires; and to provide for the organization, maintenance, government and disbanding of volunteer fire companies. Every member of the volunteer fire department shall be exempt from serving on juries and from military duties while such member; and every person who shall be a member of said volunteer fire department for five years shall thereafter be exempt from all such duties.

#### PAID FIRE DEPARTMENT.

Section 239. The Commission may abolish the volunteer fire companies and establish paid fire companies in lieu thereof, and provide for the employment and discharge of the members of such

companies, and prescribe the powers and duties of the officers and men therein.

#### COMMISSION TO MAKE RULES.

Section 240. The Commission shall have power to make rules and regulations for the government of the fire department and the members thereof; and for the protection, management and use of all the means, apparatus and appliances for the control and extinguishment of fires.

#### OFFICERS OF DEPARTMENT AND POWERS AND DUTIES.

Section 241. The Commission shall have power to appoint a chief engineer and two assistant engineers of the fire department, and also a fire marshal, and to prescribe the powers and duties of such officers and of all other officers and members of the fire department. The fire marshal shall see that all laws, ordinances, rules and regulations for the prevention of danger from fire are complied with; and he is authorized to enter any dwelling house or other building at any reasonable time to examine chimneys, stoves, furnaces, pipes, and other parts of such buildings and ascertain whether such laws, ordinances, rules and regulations are complied with. It shall further be the duty of such fire marshal to examine particularly into the cause of every fire which shall happen within the City, and to make and keep a brief record of the same, and make a report thereof to the Commission at such times as it shall direct.

#### FIRE POLICE. DUTIES OF POLICE MEN.

Section 242. Whenever the Commission shall deem it necessary it may provide for a fire police of such numbers and with such powers as it may determine, and for that purpose it may either give police powers to such of the officers or men of the fire department as may be necessary, or authorize the appointment of the necessary policemen in the same manner as other policemen are appointed. In all cases, all policemen present at any fire shall be subject to the direction of the officers of the fire department present at such fires.

#### ARREST AT FIRES.

Section 243. Whenever any person at any fire shall refuse to obey any lawful order of the chief engineer of the fire department or other officer vested with authority at such fire, it shall be lawful for the officer giving such order to arrest, or to direct orally any police officer or citizen to arrest such person, and to confine him temporarily in any safe place until such fire shall be extinguished; and in the same manner such officer or any of them may order or direct the arrest and confinement of any person at such fire who shall be intoxicated or disorderly, and any person who shall refuse to obey any such lawful order or who shall refuse to arrest or aid in arresting any person so refusing, shall be guilty of a misdemeanor.

#### EXPENSE. HOW DEFRAIDED.

Section 244. All expense pertaining to the fire department shall be paid out of the Fire Department Fund. The construction of



buildings for the fire department may be paid for out of the Permanent Improvement Fund.

## CHAPTER XVII.

### POLICE DEPARTMENT.

#### POLICEMEN, APPOINTMENT, QUALIFICATION, REMOVALS.

Section 245. The Police Department of the City of St. Cloud shall consist of the Mayor, a Chief of Police and such subordinate policemen, watchmen, detectives, and other officers as may be authorized by the Commission and appointed by the Mayor. The Mayor shall appoint the Chief of Police, all police officers, watchmen, detectives, and all other officers pertaining to said department. All such appointments shall be subject to the approval of the Commission. No person shall be eligible to an appointment in said department unless he is a citizen of the United States, is able to read and write the English language, and is of good health and physique, and has not been convicted of any criminal offense. The Mayor may at any time suspend or remove any officer or member of said department, and no person so suspended shall receive any compensation for the time he is so suspended.

#### LIMITED POLICEMEN.

Section 246. The Mayor may at the request of any persons, firm, corporation, society, or organization, appoint a policeman or watchman, who shall serve without expense to the City, and have police powers to preserve the peace and protect property within such limits, and at such places as may be designated in such appointment, but such limited policeman or watchman shall not exercise any authority, nor wear any badge of office outside the limits named in such appointment.

#### SPECIAL POLICEMEN.

Section 247. The Mayor may, in case of any mob, riot, pestilence, large public gatherings, great public excitement, or other emergency, or for days of election, of public celebration, or of public parades, appoint such number of special or temporary police officers as he may deem necessary, but such special or temporary appointment shall not continue for more than one week without consent of the Commission.

#### TITLES, RULES, UNIFORMS, ARMS AND BADGES.

Section 248. The Mayor shall have power to prescribe the title, rank, powers and duties of the several members of the police force and from time to time to make all needful rules and regulations for the government, control, efficiency and discipline of the same, and for regulating and determining the uniform, badges, arms, discipline, drill and exercise of the same, as well as the conduct of the officers and men of said force when on or off duty. He may promulgate and enforce general and special orders for the government and direction of such police force and the several members thereof.

**POWERS AND DUTIES.**

Section 249. All police officers, detectives and watchmen, and all members of the police force of the City, shall possess all the powers of constables at common law, or by the laws of the State in and for all the counties in which said City is situated; and shall have the power, and it shall be their duty, to execute and serve all warrants, process, commitments, and all writs whatsoever, issued by any Court or City Justice of said City, and also all writs and process whatsoever, issued by any Court or City Justice of said City in civil actions, and they shall have authority to pursue and arrest any person fleeing from justice in any part of the State; and when performing the duties of constable as aforesaid, shall be entitled to like fees, to be taxed and collected in like manner, but the City of St. Cloud shall not be liable to them for any fees.

**PEACE OFFICERS. POWERS.**

Section 250. The Mayor or Acting Mayor, Chief of Police, the officers of police next in rank to the Chief, the Sheriff of Stearns County, and his deputies, the Coroner, the City Justices, and all police officers and watchmen shall be officers of the peace, and may command the peace, suppress in a summary manner all rioting or disorderly behavior within the city limits, and for such purpose may command the assistance of all bystanders, and, if need be, of all citizens and military companies, and, in case when the civil authorities may be required to suppress riots or disorderly behavior, the superior or senior officer present, in the order mentioned in this section shall direct the proceedings.

**REFUSING TO AID PEACE OFFICERS. PENALTY.**

Section 251. If any person, bystander, military officer, or private, shall refuse to aid in preserving the peace when thereto required, as designated in the foregoing section, every such person shall forfeit and pay a fine of fifty dollars, to be recovered by prosecution in any court of competent jurisdiction.

**ASSUMING TO BE POLICEMAN A MISDEMEANOR.**

Section 252. If any person shall without authority, assume to act as a policeman, or pretend to have such power, or wear the badge of policeman within said City, he shall be deemed guilty of a misdemeanor, and upon conviction thereof before a City Justice, he shall be fined not exceeding one hundred dollars (\$100) or imprisonment not exceeding ninety (90) days in the discretion of said Court.

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**CHAPTER XVIII.****CITY JUSTICES AND COURTS.****POWERS OF JUSTICES, PROCEDURE, APPEALS.**

Section 253. The Justices of the Peace for the City, styled City Justices, and each of said City Justices shall possess all the authority, power and rights of a Justice of the Peace for the counties in which said City is located, under the laws of this State, and said

City Justices shall in addition thereto have exclusive jurisdiction to hear all complaints, conduct all examinations and trial for all offenses cognizable before a Justice of the Peace for violation of any provision or provisions of the charter or of any ordinance or by-law, rule or regulation made or adopted by virtue thereof; and of all cases cognizable before a Justice of the Peace in which the City is a party, and of all writs, prosecutions and proceedings in the recovery of any fine or forfeiture or penalty under any by-law, ordinance or regulation of said City or its charter, and in all cases of offenses committed against the same. In all prosecutions for assaults, batteries and affrays, and for all offenses cognizable and triable before a Justice of the Peace, and in all civil suits or proceedings before said City Justice the same forms and proceedings shall be had and used when not otherwise provided, as are established and required to be had in civil and criminal actions by the laws of this State before a Justice of the Peace, and appeals from the judgment and decisions of said City Justices shall be allowed as now provided by law for appeals from judgment rendered by Justices of the Peace; Provided, however, that at least one of said City Justices shall reside in that portion of said City lying East of the Mississippi river, and provided further that appeals from judgments or decisions of said City Justices shall be taken to the District Court in and for that county in which the defendant resides. Provided, however, that in all actions wherein said City is a party and in all actions and proceedings for the violation of any ordinance, by-law, rule or regulation made or adopted by virtue thereof, and in case of all writs, prosecutions or proceedings in the recovery of any fine or forfeiture or penalty under any by-law, ordinance or regulation of the said City or its charter, and in all cases of offenses committed against the same, such appeal shall be taken to the District Court for the County of Stearns. In all cases of conviction for assaults, batteries and affrays within said City and in all cases of conviction under the ordinances of the City for breach of the peace, disorderly conduct, keeping houses of ill fame or frequenting the same, and of keeping and maintaining disorderly and ill-governed houses, the said Justice shall have power, in addition to the fines or penalties imposed, to compel said offenders to give security for their good behavior and to keep the peace for a period not exceeding six months and in a sum not exceeding five hundred dollars. All fines and penalties imposed by the City Justices for offenses committed within the city limits or for the violation of any ordinance, by-law or regulation of said city, shall belong to and be a part of the finance of said City.

#### ATTENDANCE OF OFFICE. ISSUE PROCESS, WHERE.

Section 254. Said Justices shall be in attendance at their offices for the transaction of business at such reasonable hours as the Commission may prescribe, and complaints may be made to, and writs and process issued by them at all times in court or otherwise.

#### FEE, JURISDICTIONS OF ACTIONS FOR AND AGAINST CITY.

Section 255. In all suits brought in behalf of said City for the recovery of any forfeiture, fine or penalty, in all cases arising and

on complaints for the violation of any ordinance, by-law or regulation of said City, and on complaints for assault, battery or affray or other misdemeanor or criminal offense, cognizable and triable before a Justice of the Peace, committed within said City, the said Justices shall be authorized to tax with the other legal costs one dollar for each trial, and their residence in said City shall not deprive them of jurisdiction of actions brought in favor of or against said City when said actions are otherwise within the jurisdiction of said Justices; Provided, that said fee of one dollar shall not be collected from any county of which said City forms a part, nor from the said City.

#### PROCESS, TO WHOM DIRECTED. NOT REQUIRED, WHEN.

Section 256. In all prosecutions for any violation of the provisions of this charter or any ordinance, by-law or regulation of said City, the first process shall be by warrant on complaint being made; provided, that no warrant shall be necessary in any case of the arrest of any person or persons while in the act of violating any law of the State of Minnesota, the provisions of this charter or any ordinance, by-law or regulation of said City; but the person or persons so arrested may be proceeded against, tried, convicted and punished or discharged in the same manner as if the arrest had been made by warrant. All warrants, processes, or writs issued by any City Justice for the violation of any ordinance, by-law or regulation of said City shall be directed to the Chief of Police or any police officer of said City.

#### OFFENDER, IMPRISONED, WHEN.

Section 257. In all cases of the imposition of any fines or penalty, or of the rendering of any judgment by a City Justice of said City, pursuant to any ordinance, by-law or regulation of the said City of St. Cloud, or for the violation of any ordinance, by-law or regulation, as aforesaid, the offender shall be forthwith committed to the city prison of said City, or if there be no city prison, to the common jail of Stearns County, and be there imprisoned for a term not exceeding three months, in the discretion of the City Justice, unless the said fine or penalty be sooner paid; and from the time of the arrest of any person or persons for any offense whatever, until the time of trial the person and persons so arrested, may be imprisoned in the city prison, or in case there be no city prison, in the common jail of the County of Stearns.

#### PROSECUTIONS TO BE IN NAME OF CITY.

Section 258. All prosecutions under the provisions of this act, for any violation of any ordinance, by-law or regulation of said City shall be commenced and prosecuted in the name of the City of St. Cloud.

#### ENTRY IN DOCKET IN LIEU OF COMPLAINT.

Section 259. In case when alleged offenders shall be in custody and brought before said Justice without process, the Justice shall enter on his docket a brief statement of the offense with which the defendant is charged, which shall stand in place of a complaint, unless the Justice shall direct a formal complaint to be made.



## CHAPTER XIX.

## MISCELLANEOUS PROVISIONS.

## RECONSIDERATION OF VOTE. NUMBER PRESENT.

Section 260. No vote of the Council or Commission shall be reconsidered or rescinded at a subsequent meeting, unless at such subsequent meeting there be present as large a number of Councilmen or Commissioners as were present when the vote was taken.

## RESIDENCE IN CITY DOES NOT DISQUALIFY JURORS, ETC.

Section 261. No person shall be an incompetent judge, justice, witness or juror by reason of his being an inhabitant of said City, in any proceeding or action in which the City shall be a party in interest.

## ORDINANCES AND RESOLUTIONS LEGALIZED.

Section 262. All ordinances, resolutions and regulations heretofore made by the Common Council of the City of St. Cloud, not inconsistent with the provisions of this charter are hereby legalized and shall be and remain in force until altered, modified or repealed by the Council of the City of St. Cloud, or by resolution of the Commission when so provided herein.

## PROCESS SERVED ON CITY, HOW. DUTY OF MAYOR.

Section 263. When any suit or action shall be commenced against said City, service of the process may be made by the proper officer by leaving a copy of such process with the Mayor or City Clerk; and it shall be the duty of the officer upon whom such process is served forthwith to inform the Commission thereof, and take such other proceedings as by ordinance or resolution said Commission may have in such case provided.

## PROPERTY, CITY MAY HOLD AND CONVEY. NOT TAXABLE.

Section 264. The said City may purchase and hold real and personal estate for public purposes, sufficient for the convenience of the inhabitants thereof, and may sell and convey the same, and the same shall be free from taxation.

## CHARTER. NOT AMENDED UNLESS SO STATED.

Section 265. No law of the State concerning the provisions of this act, shall be considered as repealing, amending or modifying the same, unless such purpose be expressly set forth in such law.

## PRINTED ORDINANCES AND RULES. EVIDENCE.

Section 266. All books and pamphlets published, or which may be published, purporting upon their title page to be published by the authority, order or direction of the Commission, and purporting to contain the ordinances of said City, standing rules and orders of said Commission, or either, are hereby declared to be competent and prima facie evidence of the contents of such ordinances, standing rules and orders and of any resolutions or other matters purporting to be the act of the Council or Commission which may be found printed therein, and of the due and legal adoption, approval and publication thereof. And the certificate of the City Clerk that any printed slip of paper to which such certificate may be attached,

contains or is a true copy of any ordinance, resolution, proceeding of the Council or Commission or other paper, the original of which is presumably in the possession of said City Clerk, shall constitute such printed slips of paper competent and prima facie evidence of the contents and purport of such ordinance, resolution, proceedings, or other paper, and of the legal passage, adoption, approval and publication thereof.

#### PUBLICATION OF CHARTER, ORDINANCES AND RULES.

Section 267. The Commission may from to time provide for the compilation and publication of the charter and ordinances of the City, and such resolutions and other matter as may be designated, and for the distribution or sale of copies of such a compilation in its discretion, and may also provide for the exchange of such printed compilations for similar publications of other cities.

#### NO OFFICERS TO DISPOSE OF CITY PROPERTY.

Section 268. No City Officer or employee or the City shall sell, dispose of, or convert to his own use, any City property in his charge, without special authority from the Commission.

#### COMMISSION. TRUSTEES UNDER TOWNSITE ACT.

Section 269. The Commission of the City of St. Cloud shall have all the powers and perform all the duties possessed by and enjoined upon the former town Council of the town as trustees of the trust created by virtue of the entry of the townsite of St. Cloud under the act of Congress entitled, "An act for the relief of citizens of towns upon lands of the United States, under certain circumstances," passed May 23, 1844, and shall execute deeds to the owners and occupants of lots in said town, so held in trust by the former Town Council; shall collect the assessments of said lots, and shall pay all liabilities incurred in the exercising and carrying out of the trust aforesaid.

#### EXPENSE OF ENTRY A LIEN ON LOTS.

Section 270. The amounts assessed upon the lots in said town of St. Cloud, for the expense incurred by reason of the exercising and carrying out of the trust mentioned in the foregoing section, shall be a lien on each of said lots, to the amount of expenses assessed upon such lot, and no sale of such lot or lots for any tax assessed thereon shall pass any title to the purchaser or purchasers thereof, until the purchaser or purchasers shall pay to the City Treasurer the amount assessed against said lot as its proportional share of the expense of the entry of the townsite of St. Cloud.

#### CLAIMS, ITEMIZED AND VERIFIED, EXCEPT PAY ROLLS.

Section 271. All claims and demands against the City except such as shall be paid on pay rolls as in this charter provided shall be itemized and duly verified by the claimant or some person having personal knowledge thereof before the same shall be allowed by the Commission.

#### CITY RECORDS, PUBLIC, EVIDENCE.

Section 272. All records, files and papers of the City shall be deemed to be public records, and at all reasonable times shall be

open to examination and inspection of all persons, and shall be prima facie evidence of the facts stated therein.

#### CHARTER, COURTS TAKE JUDICIAL NOTICE OF.

Section 273. This charter is hereby declared to be a public act, and all courts shall take judicial notice thereof and it shall not be necessary to plead or prove the same in any court.

#### CITY TO SUPPORT PAUPERS WITHIN CITY.

Section 274. The City of St. Cloud shall care for and support the pauper poor residing in said City.

#### SUITS BY OR AGAINST CITY, PLACE OF TRIAL.

Section 275. The place of trial of all actions or proceedings by or against the City of St. Cloud not brought before a City Justice, shall be in the County of Stearns. All suits or proceedings by or against said City not brought before a City Justice shall be brought in the District Court of said Stearns County; and no court whatever shall have original jurisdiction thereof. Provided, that this section shall not prevent the bringing of any proceedings in the Supreme Court of the State in cases in which the Supreme Court may have original jurisdiction.

#### CONVICTION UNDER STATE LAWS, CITY EXEMPT FROM EXPENSE.

Section 276. The City of St. Cloud shall not be liable in any case for the board or jail fees of any person who may be committed by an officer or magistrate of the City, to the jail of Stearns County, under the State laws.

#### APPEALS FROM ALLOWANCE OF CLAIMS.

Section 277. When any claim against said City shall be allowed in whole or in part by the Commission no order shall be issued in payment of the same or any part thereof until after ten days from the date of such allowance, and the City Attorney may in any case and if the amount allowed exceeds twenty-five (\$25.) dollars, upon the request of seven taxpayers of the City, he shall on behalf and in the name of said City appeal from such allowance to the District Court in and for the County of Stearns, by causing a written notice of such appeal to be filed in the office of the City Clerk within ten days after the date of such allowance; and thereafter no order shall be issued in payment of any part of such claim until a certified copy of the judgment of the Court shall be filed in the office of the City Clerk, except as hereinbefore provided. Upon the filing of such notice of appeal, the Court shall acquire jurisdiction of the parties and of the subject matter and may compel a return to be made as in the case of an appeal from the judgment of a Justice of the Peace, provided that when said appeal is taken at the request of taxpayers of said City it shall be ineffectual for any purpose unless there shall be filed with the City Clerk and approved by him, a bond, to and for the use of the person, firm or corporation, in whose favor such claim shall have been allowed, executed by the taxpayers requesting such appeal or by some one on their behalf, in the sum of two hundred (\$200.) dollars, conditioned that said taxpayers shall pay all costs and disbursements

that may be awarded against said City on such appeal and such additional sum, if any, as may be allowed on said claim in the District Court. And provided further that at any time said appeal shall be dismissed and said claim paid when ordered by a vote of a majority of the members of the Commission, with the approval of the Mayor, which approval may be signified by the signing of the warrant, or order, for the payment of the same.

Within ten days after an appeal has been taken the City Clerk shall on being paid the sum of one dollar by said taxpayers, file in the office of the Clerk of the District Court a certified copy of the claims and transcript of the record of the action of the Commission thereon together with a copy of the notice of appeal and said request of said taxpayers, if any, and the date of the filing thereof in his office. The proceeding shall be put upon the calendar for trial as an issue of fact at the next general term of the said District Court, beginning not less than ten days after the date of such appeal; and on or before the second day of such term the Court shall direct pleadings to be made up as in civil actions, upon which the proceeding shall be tried, and all questions of law summarily heard and determined. Issues of fact shall be tried and judgment rendered and perfected as in civil actions, but no execution shall be issued thereon except for the collection of a counter claim or costs and disbursements in case of a judgment therefor against a claimant.

An appeal from judgment of the District Court may be taken to the Supreme Court as in civil actions within thirty days after the actual entry of the judgment. If no appeal is taken, a certified copy of the judgment shall be filed in the office of the City Clerk, and if an appeal is taken, the determination of the Supreme Court shall be certified to the District Court and judgment entered in accordance therewith, and that judgment certified to and filed in the office of the City Clerk. In either case after such certified copy is filed orders shall be drawn on the Treasurer of said City in payment of any judgment in favor of said claimant and execution may be issued out of said District Court for the collection of any costs against a claimant. Provided that in any case when costs are awarded against a claimant and there is any allowance on the claim in his favor, the amount of such costs shall be deducted from such allowance, and in any case of an appeal the City may in the District Court interpose as a counterclaim any demand which it has against such claimant and have execution for the collection of any judgment in its favor.

Costs and disbursements shall be allowed in favor of said City and against the claimant as in other cases in case said claimant shall fail to recover an amount equal to that allowed by said Commission, but in no case shall costs and disbursements be allowed against said city unless such appeal is taken by the City Attorney without the request of any taxpayers as herein provided.

In all proceedings had in such District Court, or Supreme Court, the claimant shall be known as the plaintiff and said City as the defendant, and the taxpayers at whose request such appeal is taken, if any there be, as appellants. In case such claimant shall recover on such appeal a sum equal to or greater than the amount so al-



lowed by said Commission he shall be entitled to costs and disbursements and have judgment and execution therefor against said appellants, and in case there shall be no such appellants then he shall be entitled to costs and disbursements to be included in a judgment against said City as in ordinary actions.

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To the Honorable Peter J. Seberger, Mayor of the City of St. Cloud:  
Sir:—

We the undersigned having been heretofore appointed by the Judge of the District Court of the Seventh and Eighteenth Judicial Districts as a Board of Free Holders to prepare and present a proposed new charter for the City of St. Cloud pursuant to the provisions of Sections 748 to 758, inclusive, R. L. 1905 and the several laws amendatory, thereto—hereby respectfully submit to Your Honor the hereto attached draft of such proposed new charter.

Dated August 25th, 1911.

CHARLES F. LADNER,  
President.

P. M. MAGNUSSON,  
ALFRED JOHNSON,  
JAMES BENSIE,  
LORENZO J. ROCHOLL,  
ELMER KNUTSON,  
J. B. ROSENBERGER,  
HUBERT GANS,  
EDWARD ZAPP,  
P. J. SEBERGER,  
C. L. ATWOOD,  
O. H. HAVILL,  
JAMES E. JENKS,

Secretary.

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